United Nations A/HRC/29/42

General Assembly

Distr.: General
4 June 2015

Original: English

Human Rights Council
Twenty-ninth session
Agenda item 4
Human rights situations that require the Council's attention

Report of the commission of inquiry on human rights in Eritrea*, **, ***

Summary

The commission of inquiry undertook its investigation in accordance with Human Rights Council resolution 26/24.

Although the commission was unable to visit Eritrea, it obtained first-hand testimony by conducting 550 confidential interviews with witnesses residing in third countries. It also received 160 written submissions.

On the basis of this body of evidence, the commission found that systematic, widespread and gross human rights violations have been and are being committed in Eritrea under the authority of the Government. Some of these violations may constitute crimes against humanity.

In the present report, the commission shows how the initial promises of democracy and rule of law, incarnated in the never-implemented Constitution of 1997, were progressively suppressed and then extinguished by the Government. It details how the Government has created and sustained repressive systems to control, silence and isolate individuals in the country, depriving them of their fundamental freedoms. Information collected on people's activities, their supposed intentions and even conjectured thoughts are used to rule through fear in a country where individuals are routinely arbitrarily arrested and detained, tortured, disappeared or extrajudicially executed. The commission also describes how, on the pretext of defending the integrity of the State and ensuring its self-sufficiency, Eritreans are subject to systems of national service and forced labour that effectively abuse, exploit and enslave them for indefinite periods of time.

* The annexes to the present report are circulated as received, in the language of submission only.
** For detailed findings of the commission of inquiry, see document A/HRC/29/CRP.1.
*** Late submission

GE.15-11450 (E)
1511450

Please recycle

Contents

		Paragraphs	*Page*
I.	Introduction	1 – 3	3
II.	Mandate and methodology	4 – 22	3
	A. Non-cooperation by Eritrea	9 - 11	3
	B. Methods of work	12 – 19	4
	C. Legal framework and standard of proof for reported violations	20 – 21	4
	D. Archiving and record-keeping of testimony	22	5
III.	Principal findings of the commission	23 – 65	5
	A. Controlled, silenced and isolated	27 – 37	6
	B. Rule by fear	38 – 56	8
	C. Abused, exploited and enslaved	57 – 65	12
IV.	Conclusions and recommendations	66 – 102	14
	A. Conclusions	66 – 83	14
	B. Recommendations	84 – 102	17
Annexes			
I.	Letter addressed to the President of Eritrea by the commission of inquiry		24
II.	List of detention facilities identified by the commission of inquiry		26

I. Introduction

1. In its resolution 26/24, the Human Rights Council established the commission of inquiry on human rights in Eritrea for a period of one year with the mandate to investigate all alleged violations of human rights in Eritrea, as outlined by the Special Rapporteur on the situation of human rights in Eritrea in her reports (A/HRC/23/53 and A/HRC/26/45).

2. On 26 September 2014, the President of the Human Rights Council appointed Mike Smith as chairperson of the commission, and Victor Dankwa and the Special Rapporteur on the situation of human rights in Eritrea, Sheila B. Keetharuth, as its members.

3. The present report is submitted pursuant to Council resolution 26/24, in which the Council requested the commission to present a written report to the Council at its twenty-ninth session. In accordance with the decision of the Council, all reports of the commission, including document A/HRC/29/CRP.1, will be transmitted to all relevant bodies of the United Nations and to the Secretary-General for appropriate action.

II. Mandate and methodology

4. In compliance with resolution 26/24, the commission of inquiry investigated the human rights violations described by the Special Rapporteur in her reports, including extrajudicial killings, enforced disappearances and *incommunicado* detention, arbitrary arrest and detention, torture, violations committed during compulsory national service, including those affecting children's rights, and restrictions to the freedoms of expression and opinion, assembly, association, religious belief and movement.

5. The commission paid specific attention to gender-based violations, particularly violence against women, and the impact of violations on particular groups, including women and children.

6. Human Rights Council resolution 26/24 does not limit the temporal scope of the inquiry. As part of the definition of its methods of work, the commission decided to focus the temporal scope of the investigation from the independence of Eritrea until present day.

7. With regard to its geographic scope, the commission conducted its investigation on violations allegedly committed on the territory of Eritrea.

8. While other commissions of inquiry established by the Human Rights Council were specifically requested to investigate human rights violations and related crimes in a specific country or territory, the present commission was mandated only to investigate violations of human rights; it therefore interpreted its mandate as not including the investigation of international crimes. Nevertheless, the commission was not of the view that this prevented it, on the basis of the body of information collected by the end of its investigation, from reaching a conclusion on the possibility that such crimes may have been committed and from recommending further investigations.

A. Non-cooperation by Eritrea

9. In Human Rights Council resolution 26/25, the Council called upon the Government of Eritrea to cooperate fully with the commission, to permit unrestricted access to visit and to provide the information necessary for the fulfilment of the mandate.

10. The Government did not respond to the commission's repeated calls for access and for information related to the human rights situation. During the commission's oral update to the Council at its twenty-eighth session, the Government stated that "country-specific

resolutions and mandates are in breach of the United Nations principles of impartiality, objectivity and non-selectivity" and rejected the oral report.

11. The commission shared its detailed findings with the Government of Eritrea (see annex I).

B. Methods of work

12. Without access to Eritrea, the commission obtained first-hand testimony by conducting confidential interviews with witnesses residing in third countries.

13. Within the limits of time, budget and programme of work, the commission selected countries to visit on the basis of acceptance received, size of the Eritrean population hosted, and their average dates of departure from Eritrea (the latter to ensure that the entire period under investigation was covered). The commission conducted visits to Djibouti, Ethiopia, Germany, Italy, Sweden, Switzerland, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

14. The commission and its secretariat conducted confidential interviews with more than 550 witnesses, 100 of whom were women. In accordance with best practices, it paid special attention to gender issues and the gendered impact of violations. Nevertheless, it faced significant difficulties in the investigation and documentation of human rights violations suffered by women. The commission therefore takes the view that its inquiry may have only partially captured the extent of sexual violence and violence against women.

15. In November 2014, the commission made a call for written submissions to relevant individuals, groups and organizations. By the deadline, 160 submissions had been received.

16. The commission engaged with a number of United Nations entities and other humanitarian actors. It regrets that a number of these entities and actors felt they were not in a position to provide relevant information. The commission expresses its gratitude to the Office of the United Nations High Commissioner for Human Rights (OHCHR) for its support. The commission also benefited from the invaluable support of a number of non-governmental organizations.

17. Aside from its inability to enter Eritrea, the most significant investigative challenge the commission faced was fear of reprisal among witnesses. Many potential witnesses residing outside Eritrea were afraid to testify, even on a confidential basis, because they assumed they were still being clandestinely monitored by the authorities and therefore feared for their safety and for family members back in Eritrea.

18. As a consequence, the commission paid particular attention to the protection of witnesses. It recalls that primary responsibility for protecting all persons cooperating with the commission rests with their States of residence and nationality. The commission therefore urges Member States to provide additional protection measures where necessary.

19. Another challenge faced by the commission in the completion of its work was the absence of reliable data, including statistical information, in such areas as demographics, development, the economy and the legal system. Whenever evidence-based conclusions could not be drawn from available data, the commission indicated it.

C. Legal framework and standard of proof for reported violations

20. The commission assessed the human rights situation on the basis of the international legal obligations voluntarily subscribed to by Eritrea. Eritrea is a State party to the following universal and regional human rights treaties (year of ratification is given in parentheses):

- Convention on the Rights of the Child (1994) and the Optional Protocols thereto on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography (2005)
- Convention on the Elimination of All Forms of Discrimination against Women (1995)
- African Charter on Human and Peoples' Rights (1999)
- African Charter on the Rights and Welfare of the Child (2000)
- International Convention on the Elimination of Racial Discrimination (2001)
- International Covenant on Economic, Social and Cultural Rights (2001)
- International Covenant on Civil and Political Rights (2002)
- Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (2014)

21. The commission based its findings on a "reasonable grounds to believe" standard of proof. This standard is met when in assessing all the information gathered – including open sources – it can be concluded that it is reasonable to believe that the incident or event occurred as reported.

D. Archiving and record-keeping of testimony

22. In accordance with established United Nations procedures, all information collected by the commission is stored in the official United Nations archive system and all interviews are classified as strictly confidential. Information will not be shared with any State, entity or individual without the explicit and informed consent of each witness concerned. This includes sharing with other sections of OHCHR, United Nations human rights mechanisms, any international judicial mechanisms, any judicial mechanisms of other States, and any government authorities, in particular the Government of Eritrea.

III. Principal findings of the commission

23. The commission finds that systematic, widespread and gross human rights violations have been and are being committed in Eritrea under the authority of the Government. Patterns of systematic human rights violations have been identified, taking into account several factors. They include the high frequency of occurrence of the human rights violations documented and corroborated during the investigation, the number of victims and the replication of the violation during a certain period of time; the type of rights violated; and the systemic nature of these violations, meaning that they cannot be the result of random or isolated acts of the authorities. The main perpetrators of these violations are the Eritrean Defence Forces, in particular the Eritrean Army; the National Security Office; the Eritrean Police Forces; the Ministry of Information; the Ministry of Justice; the Ministry of Defence; the People's Front for Democracy and Justice (PFDJ); the Office of the President; and the President.

24. The struggle for the independence of Eritrea is recorded in history as a major feat of a people's fight for self-determination. The commission finds that the current situation of human rights in Eritrea is the tragic product of an initial desire to protect and ensure the survival of the young State that very quickly degenerated into the use of totalitarian practices aimed at perpetuating the power of the Eritrean People's Liberation Front and its successor, the People's Front for Democracy and Justice.

25. In the present report, the commission shows how the initial promises of democracy and rule of law, incarnated in the never-implemented Constitution of 1997, were progressively suppressed then extinguished by the Government on the pretext of threats to its existence. It details how the Government has created and sustained repressive systems to control, silence and isolate individuals in the country, depriving them of their fundamental freedoms. It shows how information collected on people's activities, their supposed intentions and even conjectured thoughts is used to rule through fear in a country where individuals are routinely arbitrarily arrested and detained, tortured, disappeared or extra-judicially executed. The commission also describes how, under the pretext of defending the integrity of the State and ensuring its self-sufficiency, Eritreans are subject to systems of national service and forced labour that effectively abuse, exploit and enslave them for indefinite periods of time.

26. Faced with a seemingly hopeless situation they feel powerless to change, hundreds of thousands of Eritreans are fleeing their country. In desperation, they resort to deadly escape routes through deserts and neighbouring war-torn countries and across dangerous seas in search of safety. They risk capture, torture and death at the hands of ruthless human traffickers. To ascribe their decision to leave solely to economic reasons is to ignore the dire situation of human rights in Eritrea and the very real suffering of its people. Eritreans are fleeing severe human rights violations in their country and are in need of international protection.

A. Controlled, silenced and isolated

1. Surveillance of the population in violation of the right to privacy

27. Through its extensive spying and surveillance system targeting individuals within the country and in the diaspora, the Government engages in the systematic violation of the right to privacy. It employs all means, including harassment, intimidation and the abusive use of a coupon system originally created to allow access to subsidized goods in government shops, to collect information about Eritreans. Pervasive spying and surveillance in Eritrea go beyond the needs of national security or crime prevention and are arbitrary.

28. As a result of this mass surveillance, Eritreans live in constant fear that their conduct is or may be monitored by security agents, and that information gathered may be used against them leading to arbitrary arrest, detention, torture, disappearance or death. They therefore engage in self-censorship with regard to most aspects of their lives. They do so because it is impossible for an individual to know what activities may be considered "deviant" and sanctionable at a specific moment in time and what the consequences for such activities might then be. The existence of such a pervasive control system generates a general climate of fear and mistrust in communities and even within families. In the words of one witness, "When I am in Eritrea, I feel that I cannot even think because I am afraid that people can read my thoughts and I am scared." The end result is a severe curtailment of the exercise of all other rights and freedoms.

2. Freedom of movement

29. The Government strives to control strictly any human movement both internally and for those who wish to leave the country, in particular to ensure that individuals fulfil their national service obligations. To do so, it has established an intricate system of travel permits and identity cards, which must be produced during identity checks to verify an individual's status with regard to compulsory national service and that person's authorization to travel. The Government controls who may leave Eritrea legally through the

arbitrary issuance of an exit visa. To prevent those who wish to avoid national service from leaving the country unlawfully, the Government also restricts movements towards border areas and severely punishes anyone found trying to cross the frontier. With a few exceptions, those who have been forced to return to the country have been arrested, detained and subjected to ill-treatment and torture. Eritreans voluntarily returning to their country may face arbitrary arrest, in particular if they are perceived as having associated with opposition movements abroad. Eritreans abroad can obtain a passport only upon payment of a mandatory "rehabilitation tax" amounting to 2 per cent of their earnings, a disproportionate price for a travel document. Those who left unlawfully also have to sign a regret form.

30. The restrictions on movement are not proportionate and strictly necessary in the interests of national defence. They constitute a violation of the right to freedom of movement, including the right to leave and freely return to one's country. All persons suspected of intending to cross the border unlawfully are treated in a manner that often amounts to torture or cruel, inhumane or degrading punishment, outside of any judicial proceedings.

3. Freedom of opinion and expression

31. In its determination to safeguard its own continued existence, the Government has proceeded to establish a system by which individuals in society are silenced and isolated through the organized repression of the freedoms of opinion, expression, assembly, association and religion. The commission recalls that merely invoking general grounds such as national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others cannot be regarded as legitimate to justify the restriction of public freedoms.

32. In the area of freedom of expression, the Government systematically silences anyone who is perceived as protesting against, questioning or expressing criticism of the Government and its policies, even when such statements are genuine and legitimate in the context of a democratic public debate. The most visible sign of such repression was the purge in 2001 of the G-15 reform group and of its supposed supporters, who were in their majority either killed or disappeared. Following that crackdown, the silencing of the population went a step further as Eritreans started being punished for just about any expression of opinion: claiming the enjoyment of fundamental rights and legitimate benefits; enquiring about the fate of persons perceived as critics by the Government; discussing governmental policies; or asking any type of question. The Government consistently labels perceived critics as traitors. Those found guilty of such a "crime" are severely punished.

33. Freedom of the press is another casualty of the Government's effort to control society. In 2001, the Government suppressed the emerging free press by closing down independent newspapers and silencing journalists through detention and torture, several of whom disappeared. Since then, only pro-Government information is easily accessible in the country. The Government, principally through its Ministry of Information, holds tight control over the content of information, the journalists who produce it, the matters they may cover and what they may say about them. It severely punishes any perceived divergence from the official line. The restrictions imposed on the press, the exercise of journalism as a profession and the access to information and means of communication are neither proportionate nor necessary for the interests of national security, public order or even national unity, and constitute a violation of the right to seek, receive and impart information that is included in the right to freedom of expression.

34. The freedom of assembly and association is also targeted. The few attempts to exercise the right to peacefully demonstrate have been crushed by the Government, which

arrested, detained and sometimes executed demonstrators extrajudicially. Moreover, since the prohibition of political parties and independent trade unions, short of joining the ruling party, individuals have no avenue for participating in the conduct of public affairs, nor any means to protect or improve their working conditions. The restrictions imposed by law on the establishment of and the activities that may be undertaken by national or international non-governmental organizations are so limiting that it is impossible for them to operate in the country, leaving only government-organized associations able to operate. The commission's findings on the exercise of the right to freedom of assembly and association point to a lack of mechanisms for channelling grievances, the absence of representation of interest groups in the administration of the country, lack of consultation on decisions affecting the population, absence of opportunities for open and genuine dialogue, and the punishment of peaceful assembly and expression of demands.

4. Freedom of religion and belief

35. The Government perceives religion as a threat to its existence and has set about controlling it and its expressions. Only four religious denominations are authorized in Eritrea: Eritrean Orthodox, Catholicism, the Lutheran church and Sunni Islam. In spite of the legal processes established in 2002 to apply for recognition, to date no other denominations have been formally allowed to exist. All religious communities and their members are nevertheless to varying degrees targeted by restrictions and attacks by the Government. Interference in religious structures and affairs is rampant. The religious gatherings of non-authorized denominations are prohibited. Religious materials are confiscated. Adherents are arbitrarily arrested, ill-treated or subjected to torture during their detention, and prisoners are coerced to recant their faith. Many religious followers have been killed or have disappeared.

36. In the implementation of discriminatory treatment on the basis of belief, Jehovah's Witnesses have been arbitrarily deprived of their citizenship. Apart from making it impossible for them to participate in public affairs, the loss of citizenship entails curtailment of the enjoyment of other fundamental rights, including the right to work when their business licences are arbitrarily revoked, and the right to be recognized as a person before the law when their national identity documents are confiscated.

37. The limitations imposed on the activities of churches and religious institutions by law and through unwritten policies and indirectly restricting the right to manifest one's religion or belief are not compatible with international human rights law. The restrictions have affected the right of adherents to practice and manifest their religion, to conduct legitimate religious activities such as preaching, and the functioning of religious institutions in a manner that is not proportionate and necessary for the protection of public safety or order. Moreover, the commission considers that the rights of adherents to liberty and fair trial and not to be tortured or subjected to degrading treatment or punishment are regularly violated.

B. Rule by fear

1. Administration of justice

38. The non-implementation of the Constitution of 1997, including the provisions relating to individual rights, has had a profound impact on the rule of law in Eritrea. Indeed, with no parliament meeting and the court system controlled by the executive, it could even be affirmed that there is no rule of law in Eritrea. Information gathered through the pervasive control system is used in absolute arbitrariness to keep the population in a state of permanent anxiety. It is not law that rules Eritreans, but fear.

39. Violations of the right to fair trial and due process of law are particularly blatant. Criminal proceedings disregard the most basic, universally recognized principles in the administration of justice. It seems that investigators, security officers and military leaders also act as de facto magistrates; however, given that their decisions are not public ,there is scarce information about them. Therefore, the extent of the violations committed can only be partially assessed. Most decisions are rendered on the sole basis of investigation reports that often include statements obtained under torture. Judgements are rarely made public or even communicated to accused persons, who are not always aware they have been tried and have no knowledge of how long they will be imprisoned. This makes it impossible for persons sentenced to have their sentences reviewed by a higher court.

40. The commission concludes that the judicial system, both civil and military, is not independent and the Government frequently interferes in the administration of justice. The judiciary is not in a position to protect the fundamental rights of Eritrean citizens, in particular when they are violated by public officials. Some judges are conscripts whose "careers" depend on the Ministry of Defence at a salary of less than $2 a day, a clear violation of the principle of judicial independence and of their security of tenure. Similarly, the lack of independence of the judiciary and prosecution contributes to the widespread impunity enjoyed by public officials in Eritrea, including in cases of gross abuse of human rights.

2. Arbitrary arrest

41. The use of information collected by the Government through spying networks leads in the first place to arbitrary arrest and detention. The great majority of those who provided their testimony had been arrested, many a number of times. Arrests are often unjust, unpredictable, unreasonable and disproportionate. In most cases, people are arrested and detained for reasons that are arbitrary to such an extent that no one can possibly identify the law that might have been broken. Since formal charges are not laid, individuals are left to guess the reason for their arrest and detention, based on the line of interrogation or their conduct before arrest. The main reasons for arrest that the commission was able to reconstruct related to asking questions; suspected collaboration with the enemy, including working for foreign entities in Eritrea; presumed or actual attempt to flee the country or desert national service; and for the conduct of a family member. Specific categories of people have also been targeted, particularly political opponents, journalists and members of religious groups.

42. Arrests and detention are ordered and conducted by any person with de facto authority, including local administrators, in breach of requirements that officials authorized to make arrests should be clearly identified. Most people are arrested by armed military or national security officers, in either uniform or civilian clothes. The arresting officers sometimes present their identity cards but rarely inform persons under arrest of the place where they will take them. In most cases, individuals arrested at home or on the streets are deceived by arresting officers, who tell them that they are only needed at the police station for a short time and will then be able to return home. People often ultimately find themselves in an unofficial place of detention. The principle of habeas corpus is rarely respected. As a result, the lawfulness of the deprivation of liberty is not reviewed and detainees are released at the whim of the arresting or detaining officer. Detention in Eritrea cannot possibly be referred to as pretrial, given that individuals are rarely tried. The Government systematically uses arbitrary arrests and detention in violation of the right to liberty of the person.

3. Enforced disappearance

43. Since 1991, scores of people have been subjected to enforced disappearance, for known and unknown reasons. Information is hardly ever officially provided on the whereabouts of and charges against those detained. Detainees are usually not brought before a court, and are thus placed outside the protection of the law. When relatives enquire after detainees, they are informed by prison authorities that they have no information on the person arrested and warn them to cease their enquires or risk facing a similar fate. In certain cases, relatives may subsequently receive unofficial information from inmates who have been released or from bribed guards; in most cases, however, they are still prevented from visiting their detained relatives. The commission finds that most of the countless people arrested in Eritrea are indeed victims of enforced disappearance, which is a widespread and systematically employed practice.

44. While the exact number of people subjected to enforced disappearance remains unknown, the commission finds that specific targets of the Government include political dissidents, in particular former freedom fighters belonging to the Eritrean Liberation Front, journalists, religious leaders and adherents (in particular Muslim scholars and businessmen), and leaders and members of the Afar ethnic group. The commission considers that all those who have been victims of enforced disappearance suffered a violation of their right to life, their right not to be subjected to torture, cruel, inhuman or degrading treatment, their right to be treated with humanity and with respect for dignity in the context of detention, their right to be recognized as a person before the law, and their right to liberty. In addition, in the light of the anxiety and suffering that enforced disappearances cause families for extended periods, the commission finds that the right of family members not to be subject to torture, cruel, inhuman or degrading treatment is also violated.

4. Arbitrary deprivation of life

45. Since independence, extrajudicial executions and arbitrary killings have been widely perpetrated. Before 1998, punishment in the form of summary executions or extrajudicial killings was meted out against war veterans with disabilities and political opponents, and particularly targeted Muslims scholars. Eritrean soldiers accused of cowardice or desertion during the 1998-2000 war with Ethiopia were systematically executed. This also includes Eritreans and Ethiopians suspected of being "collaborators of the enemy" after the war, in particular Kunamas accused of having supported the Government of Ethiopia. Thereafter, extrajudicial executions have been carried out by the Eritrean authorities, publicly or secretly, to punish perceived critics, as well as suspected smugglers and ordinary citizens for arbitrary reasons. Mass killings have also been perpetrated against ethnic groups.

46. Eritreans who attempt to leave the country are seen as traitors. For a considerable period of time, the Government has implemented a shoot-to-kill policy in border areas to prevent people from fleeing. The policy has largely been implemented by the military, particularly the border surveillance division. Numerous testimonies indicated that the policy, which was publicly announced in 2004, might have been revised in later years. Nevertheless, since people were still being shot at while trying to cross the border as late as 2014, the commission is not in a position to conclude that the policy has been officially abolished. The commission recalls that the right to leave one's country is a fundamental freedom recognized under international human rights law. The use of lethal force to prevent individuals from leaving Eritrea, even if illegally, is a violation of the right to life.

47. Some of the killings and executions reported might have resulted from personal initiatives or excessive use of force by officials. By not investigating, prosecuting and punishing the authors of such killings, the Government breaches its due diligence obligation; as a result, these killings are imputable to it. The commission is concerned that

the general climate of impunity thus created is conducive to the continued practice of arbitrary and extrajudicial killings in Eritrea.

5. Detention

48. The detention of persons, which begins arbitrarily at the time of arrest and continues unlawfully for long periods of time, is not subject to judicial review. The detention network in Eritrea is vast (see annex II), with many secret and unofficial facilities. Detainees are kept in a variety of facilities, including makeshift and open air camps, converted old buildings, metal containers (some of which buried underground), and in caves and holes. The practice of incommunicado detention is widespread. Persons detained on religious or political grounds are systematically kept incommunicado for periods that can last several years.

49. Conditions of detention are extremely harsh. When not held in solitary confinement or being used for labour (both common practices), inmates are locked night and day in extremely overcrowded cells characterized by unspeakable hygienic conditions. Proper toilets are not available in cells, and detainees are sometimes forced to sleep in human waste overflowing from the insufficient containers provided for this purpose. Access to fresh air and natural light is limited to bare minimum, often on purpose. Food rations are minimal and of poor nutritional quality, leading to hunger and starvation. Drinking water is frequently unclean and limited in quantity, despite the high temperatures experienced in many detention locations. In addition, the absence of health facilities and the lack or deliberate denial of medical care and medicines, coupled with the arbitrary imposition of punishment, exposes detainees to illnesses, epidemics and death. The harsh conditions of detention push some detainees to suicide.

50. The harshest conditions and the strictest regimes of detention are deliberately employed in a number of situations, including to punish those suspected of being a threat to national security, traitors or suspects of "cross-border crimes," or during the investigative phase of detention, with the intent to obtain self-incrimination, to extract a confession or information or to force religious believers to recant their faith. Conditions of detention are often particularly inhumane at the beginning of the period of detention and improve slightly but incrementally up until release.

51. An unknown number of foreign combatants are detained in Eritrea, including at least five Djiboutian soldiers, on whom no information has been received since 2011.

52. Women are generally kept separated from men, but are rarely under the responsibility or attention of women officers. The lack of female officers responsible for and attending to female detainees puts them at increased risk of sexual and gender-based violence, and causes them unnecessary humiliation. The commission documented instances where children were detained together with adults in the same inhumane conditions and without attention to their specific needs. As with others, children are often held incommunicado.

53. With regard to detention, the Government is in violation of the rights to life; to liberty and security; not to be subject to torture, cruel, inhumane or degrading treatment; to be treated with humanity and the inherent dignity of the human person; and to a reasonable standard of health. Incommunicado detention and solitary confinement, during which detainees are also denied contact with other detainees and even prison guards for prolonged periods of time, amounts to torture. Authorities are accountable for the violation of the right to life of detainees who are under their responsibility and who die in custody, including in cases of suicide. The commission finds that, in all these cases, the Government does not abide by its positive obligation to protect the life of persons in custody and its obligation of due diligence to investigate deaths.

6. Torture

54. Eritrean officials use a variety of forms of ill-treatment during interrogations and to punish detainees and conscripts. The common element of these forms of ill-treatment, such as extreme forms of restraint, beatings or rape, is that they are intended to inflict severe physical and psychological pain. The purpose of these acts is to extract confessions and information, and to punish, intimidate and coerce detainees and conscripts. Many of them also cause long-lasting psychological and physical damage to the victims or result in the death of the person. The commission finds that this ill-treatment constitutes torture, which may be described as widespread in Eritrea.

55. Torture is either directly ordered by officials or inflicted with their consent and acquiescence. The recurrence, coherence and similarities of the many torture incidents documented are a clear indication of the existence of a deliberate policy to inflict torture in a routine manner during investigations and interrogations, as well as during national service. Perpetrators of torture enjoy general impunity. The commission concludes that the Government is accountable for the widespread torture inflicted on Eritreans throughout the country.

7. Right to property

56. The State's post-independence land reforms, a significant departure from previous customary law, were implemented to varying degrees across the country. The Government's exclusive ownership of land and of natural resources has been used as a means by authorities to harass and punish perceived enemies, in particular members of unauthorized religions, opponents and relatives of people who fled the country, and to unlawfully reward associates or supporters. Although the land reform laws appear gender-neutral, the commission finds the system to be indirectly discriminatory to women. Women and girls are disproportionally affected by the citizenship requirement linked to completion of national service to have access to land, given that many do not undertake or complete it due to marriage and motherhood. Land reform also has a disproportionate impact on pastoralists, such as the Afar and Kunama minorities. The manner adopted by the authorities to resettle members of these communities may be construed as an intentional act to dispossess them of their ancestral lands, their livelihoods and their culture.

C. Abused, exploited and enslaved

1. National service

57. In 1995, the Government issued a Proclamation on national service complementing previous laws and calling for the conscription of all 18-year-old Eritreans. In 2002, it launched the Warsai Yikealo Development Campaign, requiring boys and girls to commence military training for a period of six months when they reach twelfth grade, if in school, or by the time they are 18 years old. Conscripts who pass the final exam at the Warsai Yikealo secondary school are allowed to continue their education while remaining formally in national service; others are required to serve in either the military or the civil service for at least 12 months. In reality, children are often forcibly recruited and conscripts end up serving for an indefinite period of time. The commission interviewed individuals who were still in the army when they finally decided to flee after 17 years of service.

58. Conditions and treatment during military training and service are harsh. They include lack of adequate food, water, hygienic facilities, accommodation and medical services that may result in death, severe disabilities or psychological and physiological long-term effects. Conscripts are routinely deprived of their rights to freedom of expression, movement and religion. They are systematically subjected to intentional

punishment and ill-treatment aimed at inflicting severe pain. In many cases, this constitutes torture.

59. Sexual violence against women and girls is widespread and indeed notorious in military training camps. Furthermore, the enforced domestic service of women and girls who are also sexually abused in these camps amounts to sexual slavery. The commission considers that these violations of the rights of women and girls also amount to torture. They are also committed to a lesser extent within the military and are a further example of the Government's failure to fulfil its due diligence obligations to protect, prevent, punish and remedy acts of violence against women.

60. Being exempted from national service is very difficult, particularly for men. No form of conscientious objection is allowed, and even persons with disabilities are conscripted for active military training and service instead of civil service. Authorities regularly conduct mass round-ups (*giffas*) to seize draft evaders and deserters in an indiscriminate manner. This often involves excessive use of force, occasionally leading to death, and the forced entrance into and search of private homes. Leaving national service is equally challenging, and often is only possible when the individual deserts and flees the country. Indeed, the indefinite duration of national service, its terrible conditions – including arbitrary detention, torture, sexual torture, forced labour, absence of leave and the ludicrous pay – and the implications it has for the possibility of any individual to found a family, conduct a family life and have favourable conditions of work make national service an institution where slavery-like practices are routine.

61. The conscription of citizens into national service is a prerogative of sovereign States, which can require that individuals contribute to the national defence of the State for a certain period of time. This should not, however, result in the complete denial of the individual's freedoms and rights. National service in Eritrea is based on conditions and measures that are not proportionate, reasonable or necessary in the interest of national defence. National service as implemented by the Eritrean authorities involves the systematic violation of an array of human rights on a scope and scale seldom witnessed elsewhere in the world. In particular, the commission finds that national service violates the rights of Eritreans to life; to liberty and security; not to be tortured or subject to cruel, inhumane or degrading treatment; to be treated with humanity and inherent dignity of the human person while deprived of liberty; to be recognized everywhere as a person before the law; to enjoy freedom of thought, conscience, religion, expression and movement; to privacy and family life; to education; to the highest attainable standard of physical and mental health; not to be subjected to forced labour; and to gain one's life by work freely chosen or accepted. It also violates the right of children not be forcibly enrolled in armed forces.

62. Lastly, the commission considers that the lack of investigation, prosecution and punishment by the Government of those practices or violations that result of individual initiatives constitutes a breach of its obligation of due diligence under international human rights law.

2. Forced labour

63. Thousands of boys and girls are enrolled every year in open-ended national service. The commission finds that, during their service, most conscripts in the military and all conscripts in civil service are subject to forced labour. There is a pattern of torture, inhuman, cruel or degrading treatment or punishment of conscripts in the army in connection with the labour that conscripts are forced to perform. The working and living conditions of conscripts who are subject to forced labour are conducive or amount to additional human rights violations, such as to their right to work in just and favourable conditions, their right to adequate housing and their right to the highest attainable standard

of health and access to health care, in particular when they are required to perform dangerous work.

64. Many Eritreans, including under-age students, are also subject to forced labour outside national service. Elderly Eritreans are subject to forced labour in the context of their forced recruitment in the militia. The commission finds that the labour exacted from persons deprived of liberty by the Government also constitutes a form of forced labour prohibited under international human rights law.

65. Conscripts, students, elderly persons and prisoners are all forced to work under the threat of penalty or punishment. In the repressive context of Eritrea, refusal to perform such work is therefore not a possibility they would consider. The commission concludes that forced labour in this context is a practice similar to slavery in its effects and, as such, is prohibited under international human rights law.

IV. Conclusions and recommendations

A. Conclusions

66. **The commission finds that systematic, widespread and gross human rights violations have been and are being committed by the Government of Eritrea and that there is no accountability for them. The enjoyment of rights and freedoms are severely curtailed in an overall context of a total lack of rule of law. The commission also finds that the violations in the areas of extrajudicial executions, torture (including sexual torture), national service and forced labour may constitute crimes against humanity. The commission emphasizes that its present findings should not be interpreted as a conclusion that international crimes have not been committed in other areas.**

67. **Following up on practices developed during the liberation struggle, the PFDJ, the ruling and only party in Eritrea, has held on to power by progressively dismantling or refraining from implementing reforms aimed at establishing democracy and rule of law in the country. Through the establishment of control systems and the application of harsh repression, the PFDJ has eroded public freedoms and established a rule of fear that tolerates no opposition. It has blurred the lines between the three sources of constitutional authority by concentrating all power in the executive, and in particular in the figure of the President – who is also the head of the party, at the cost of the legislature and the judiciary. National elections have never been held.**

68. **The PFDJ has established a system by which an extraordinary number of individuals have the power to spy on Eritreans and conduct investigations and arrests often without observing the law. The proliferation of national security offices and of officers assigned to administrative offices but with an intelligence mandate – and their overlap with the party's own intelligence and with military intelligence – is a major concern.**

69. **What was meant to be the supreme law of the country, the Constitution of 1997, has never been implemented. The National Assembly stopped convening in 2002. Even while it was sitting, laws were passed by government decree ("Proclamation"); since 2002, it has been the exclusive way to promulgate legislation. It is of particular concern that some important policies adopted by the Government, including those severely affecting individual rights and freedoms, are not embodied in law; they are simply "announced" by government media or in messages passed on by local administrations and implemented in practice, with all the ambiguities of such a procedure. This modus operandi has undermined the legitimate expectations of**

Eritreans on the certainty of laws and on proper legislative processes separated from and under the control of an independent legislature. While the commission welcomes the promulgation of the new codes that, as of May 2015, effectively replace the transitional codes in force since 1991, it is not in the position to assess their compliance with international human rights law.

70. The judiciary is not independent. Judges are appointed, reassigned and dismissed at the will of the President and are directed in their actions and influenced in their decisions by members of the PFDJ and of the army. The judicial system has also been affected by the creation of a parallel structure, the Special Court, which, in practice, presides over and rules on all kinds of crimes, operating with clear disregard for the most basic safeguards related to due process. Its judges are senior military officers without legal training, apparently directly appointed by the President and directly accountable to him. Globally, administration of justice is completely deficient, particularly when it comes to processing cases of persons in detention. Community courts, with jurisdiction over disputes arising from the "daily lives of the communities", have at least facilitated access to some justice for people in rural and remote communities.

71. Eritreans are unable to move at will, to express themselves freely, to practice their religion without undue interference, to enjoy unrestricted access to information or to have the liberty to assemble and associate. Pervasive control systems and heavy consequences for perceived deviant behaviours, including lifetime incarceration or death, have created an environment of self-censorship whereby individuals no longer trust anyone – not even their own family.

72. Continuing practices already recorded during the liberation struggle when dealing with internal and external opposition, the Government has since independence used enforced disappearances and extrajudicial executions to crush real or perceived opposition and prevent the rise of any opposing views. The commission finds particularly abhorrent the Government's practice of acknowledging arrests while providing no further information regarding the fate or whereabouts of those arrested.

73. Arbitrary detention is ubiquitous. The number of officials misusing the power of arrest is particularly worrisome, as is the number of official, unofficial and secret places of detention – all outside the control of the judiciary. Conditions of detention are extremely harsh, and the lack of access to sufficient food, water and medical care while in detention is found to debilitate prisoners and to lead to short- and long-term health complications, and sometimes death. The practice of keeping detainees in incommunicado detention and/or in isolation with total disregard for international standards is widespread. The mental and physical health of prisoners is thus unduly and unnecessarily affected.

74. Persons arrested, detained or held for punishment under various circumstances, including during national service and military training, are routinely subject to forms of ill-treatment that, in many cases, amount to torture. The commission finds that the use of torture is so widespread that it can only conclude that it is a policy of the Government to encourage its use for the punishment of individuals perceived as deviant and for extorting confessions. Monitoring of detention centres is non-existent, and perpetrators of torture are never brought to justice.

75. The commission finds that the practice of punishing family members for the behaviour of a relative constitutes a form of guilt by association that is in violation of international standards. Retaliation of this kind can be financial or take the form of harassment (including abroad), arbitrary arrest and detention. Targets can be

relatives of perceived critics of the Government, conscripts who have deserted, detainees who have escaped or individuals who had fled the country.

76. Controlled access to property, including land, has allowed the Government to use such resources as a further means to punish those in perceived disagreement with it and to reward supporters. The commission finds that military and party representatives in particular have abused their authority to seize land, houses and businesses for their own profit.

77. Since 1994, Eritreans have had to spend most of their working lives in national service. The duration of national service is indefinite, its conditions violate international standards and conscripts are severely underpaid . As such, it is an institution where slavery-like practices take place. Conscripts are at the mercy of their superiors, who exercise control and command over their subordinates without restriction in a way that violates human rights and without ever being held accountable. Conscripts are regularly subjected to punishment amounting to torture and ill-treatment, during both military training and life in the army. Women and girls are at a high risk of rape and other forms of sexual violence in all areas of national service, and particularly in military training camps, where they are often forced into concubinage by superiors in the camp. Eritreans who attempt to avoid conscription or escape from the military are severely punished and arbitrarily deprived of their liberty.

78. The Government has unlawfully and consistently been using conscripts and other members of the population, including members of the militia, many beyond retirement age, as forced labourers to construct infrastructure and to pursue the aim of economic development and self-sufficiency of the State, thus indirectly supporting the continued existence of a totalitarian Government that has been in power for the past 24 years. The use of forced labour is so prevalent in Eritrea that all sectors of the economy rely on it, and all Eritreans are likely to be subject to it at some stage in their lives. The Government also regularly profits from the almost free work exacted from conscripts and detainees to obtain illegitimate financial gain when they are "lent" to foreign companies paying salaries to the Government that are considerably higher than the amounts paid by the Government to the workers.

79. The situation of human rights incites an ever-increasing number of Eritreans to leave their country. Overall, it is estimated that approximately 5,000 people leave Eritrea each month, mainly to neighbouring countries. The trend has been upwards, with a marked spike during the latter months of 2014. In October 2014, the registered refugee population was 109,594 in the Sudan and 106,859 in Ethiopia. The total Eritrean population of concern to the United Nations High Commissioner for Refugees in mid-2014 was 357,406; depending on estimates of the current population, this would constitute between 6 and 10 per cent of the national population. Thousands of Eritreans are killed at sea while attempting to reach European shores. The practice of kidnapping migrating individuals, who are released on ransom after enduring horrible torture or killed, targets Eritreans in particular. Episodes of Eritreans killed inside the country while trying to leave have also been recorded.

80. Discrimination and violence against women are present in all areas of Eritrean society. Women are not only at extreme risk of sexual violence within the military and in military training camps, but also in society at large, where violence against women is perpetrated in an environment of impunity. Discrimination against women intersects with the other human rights violations, placing women in a position of vulnerability. Violations of the right to property, employment and freedom of movement result in women being vulnerable to food insecurity, engaging in transactional sex and prostitution and at heightened risk of punishment for non-

sanctioned work. The lack of genuine rule of law, credible security agencies and independent and impartial women's civil society organizations leaves women and girls unable to seek recourse to justice or remedy for the sexual and gender-based violence and discrimination they endure.

81. The commission finds that the lack of trustworthy data, including statistical data, in almost every domain (inter alia, legal, demographic, development-related and economic) is a serious deficiency that hampers a clear understanding of the situation in Eritrea, allows the circulation of interpretations that are not evidence-based, and results in decisions that can be harmful to the enjoyment of human rights of Eritreans.

82. The commission has not benefited from any form of cooperation from the Government of Eritrea. The limited access to the country by international and regional governmental and non-governmental organizations is of great concern, particularly in the context of a Government that maintains an opaque system and that does not make information publicly available to either its citizens or the international community.

83. The international community and the United Nations bear an ongoing responsibility for the situation in Eritrea. In particular, the non-implementation of the Algiers Agreement of 12 December 2000 and of the ruling on the demarcation of the border between Ethiopia and Eritrea has provided an easy pretext for the Government to implement repressive practices supposedly aimed at the defence of the State. The international community also has a responsibility to keep Eritrea under scrutiny for its policies and practices.

B. Recommendations

84. On the basis of its findings and conclusions, the commission makes the recommendations below.

1. General

85. The commission of inquiry recommends that the Government of Eritrea:

(a) Implement fully and without further delay the Constitution of 1997; any amendments to the Constitution should be made in a transparent and participatory manner and take into account the State's obligations under international human rights law;

(b) Respect obligations under international human rights treaties to which Eritrea is a party; ratify and implement other international human rights instruments; and respect fully the freedoms of expression and opinion and of peaceful assembly and association as critical foundations for any democracy;

(c) Acknowledge the existence of human rights violations and ensure accountability for past human rights violations, including but not limited to extrajudicial killings, enforced disappearances, torture, unlawful detention, sexual violence and forced labour, including within national service;

(d) Establish an independent and impartial mechanism to investigate and, where appropriate, to bring perpetrators to justice, in particular those with command responsibility, and to provide victims with adequate redress; and ensure that procedures are in place to hold all perpetrators of ongoing and future human rights violations fully accountable.

2. Governance and administration of justice

86. **The commission also recommends that the Government of Eritrea:**

(a) Ensure the separation of powers between the legislature, the executive and the judiciary;

(b) Allow the creation of political parties and hold free, fair and transparent democratic elections at all levels, and in this context, respect and implement the draft electoral law and other products of the work of the commission set up to organize elections;

(c) Bring national laws and regulations into line with international human rights standards, ensure that law-making is transparent and consultative, and that all legislation is published and made accessible to the general public in the official languages of Eritrea.

(d) Adopt legislation providing enhanced legal and social protection to those in vulnerable situations, particularly children;

(e) Undertake without delay legal and institutional reforms aimed at ensuring checks and balances among government organs, including by restoring the respect of the rule of law, by institutionalizing an independent and transparent judiciary and by providing access to justice, in particular for the accused and detainees;

(f) Ensure that court processes, including judgements, are transparent, open and accessible to the public, and transmitted to accused persons immediately;

(g) End the application of vicarious liability of innocent parties for alleged unlawful acts committed by third persons;

(h) Establish an independent national human rights institution with a monitoring mandate to investigate ongoing human rights violations; and protect and respect the substantive role that civil society actors, particularly human rights defenders, play in democratic societies.

(i) Ensure that individuals have the possibility of appealing settlements that are not based on law, and close the Special Court.

3. Enforced disappearances and arbitrary arrest and detention

87. **The commission further recommends that the Government of Eritrea:**

(a) Cease with immediate effect the practice of enforced disappearance and all forms of extrajudicial executions by, inter alia, discontinuing the shoot-to-kill policy wherever it may be applicable in border areas;

(b) Immediately and unconditionally release all unlawfully and arbitrarily detained persons, including members of the G-15, journalists and members of religious groups;

(c) Set up an effective mechanism to establish the whereabouts of those who have disappeared, provide it with a full account of all those arrested or disappeared since independence, and immediately provide information thereon to their families;

(d) Review all cases of detainees who have been convicted of an offence in a judicial or quasi-judicial forum but who were not given the opportunity to defend themselves or accorded the procedural rights that are established in the international instruments to which Eritrea is party;

(e) Put an immediate end to the practice of incommunicado detention and close all unofficial and secret places of detention; allow access to prisoners by family

members, lawyers and judges; and institute and ensure the respect of procedures whereby any person who is arrested is either charged or released after a reasonable period of time;

(f) Provide immediately information on any prisoners of war held in detention, and release them as soon as possible; in the meantime, allow international monitors unrestricted access to them.

4. Conditions of detention

88. **The commission recommends that the Government of Eritrea:**

(a) Improve the conditions of detention and the treatment of prisoners to bring them into line with international standards and, in particular, ensure access to medical treatment for all detainees in need;

(b) Ensure that solitary confinement remains an exceptional measure of limited duration;

(c) Institute procedures for independent oversight of detention centres; and immediately permit unhindered access by international monitors to all places of detention, allow them to conduct regular and unannounced visits, and act promptly on their recommendations;

5. Torture and ill-treatment

89. **The commission recommends that the Government of Eritrea put an immediate end to the use of torture and other forms of ill-treatment, establish adequate complaints mechanisms and ensure that prompt and effective investigations are conducted into all allegations of torture and ill-treatment with a view to bringing perpetrators to justice.**

6. Public freedoms

90. **The commission recommends that the Government of Eritrea:**

(a) Permit immediately freedom of movement within the country by dismantling checkpoints and removing the need for travel permits; take measures to facilitate the lawful movement of persons in and out of the country, including for family reunification; and lift the requirement of an exit visa to leave the country, and treat returnees in compliance with international standards;

(b) Take immediate measures to allow the operation of independent media, including by bringing relevant legislation into conformity with international standards; and protect journalists from arbitrary interference and arrest;

(c) Take immediate measures to end all religious persecution, particularly for specific religious groups, such as Jehovah's Witnesses, Pentecostals and other non-authorized religious groups; and immediately restore citizenship and related rights;

(d) Respect the religious freedom of all faiths.

7. Property

91. **The commission also recommends that the Government of Eritrea:**

(a) Ensure that rights related to property are realized and enjoyed without discrimination of any kind;

(b) Ensure that evictions from property, including land and houses, and resettlements are conducted in accordance with international human rights law, including on compensation, and the principles of proportionality and reasonableness;

(c) End forced evictions used in reprisal against unauthorized religions, such as Jehovah's Witnesses and those who did not take part in the armed struggle;

(d) Stop the seizure without compensation of land of Afars who flee Eritrea; and ensure that Afars are resettled in a hospitable environment.

8. National service

92. **The commission recommends that the Government of Eritrea:**

(a) Discontinue indefinite national service by limiting it to 18 months for all current and future conscripts, as envisaged by the Proclamation on national service;

(b) Provide full and transparent information on the implementation of the recent announcement concerning the return of the duration of national service to 18 months for persons recruited as of 2014;

(c) Provide for conscientious objection by law, in accordance with international norms; and provide for and grant exemptions from national service for reasons relating to physical or mental health issues or family needs;

(d) Establish and apply lawful procedures for the apprehension of draft evaders and deserters, and ensure that they are charged and tried by a court in accordance with international standards;

(e) Adopt a military code that, inter alia, forbids and punishes ill-treatment, exploitation and harassment of conscripts, and that sets standards for their living conditions, including provision of food and shelter;

(f) Establish a complaint mechanism for conscripts to raise allegations of ill-treatment and to obtain redress;

(g) Stop the forced recruitment of children under the age of 18 years into military training;

(h) Disassociate education from military service and provide for the completion of secondary schooling outside of Sawa or other military training centres;

(i) Abolish the requirement of completion of national service duties for citizenship.

9. Forced labour

93. **The commission of inquiry calls upon the Government of Eritrea to cease the practice of using conscripts serving in the national service, detainees, students and members of the militia as a source of forced labour, which is prohibited by international standards.**

10. Gender equality

94. **The commission of inquiry recommends that the Government:**

(a) Strengthen legislation protecting and promoting the equality of women in Eritrea;

(b) Ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;

(c) Permit the creation of independent gender-specific civil society organizations, which are necessary to increase women's involvement in public life and decision-making;

(d) Ensure that women have access to productive land, agricultural training and the means required to make their farming sustainable and productive;

(e) Ensure that all women and girls enjoy equal inheritance rights and are protected by the same legal standards;

(f) Investigate, prosecute and sentence offenders of sexual and gender-based violence;

(g) During mandatory military training, prohibit the assignment of women and girls to officials' quarters for forced domestic labour, and institute a zero-tolerance policy for sexual abuse within training camps, which should be monitored and reported on by an independent institution;

(h) Take immediate measures to ensure de facto gender equality, and address all forms of violence against women, including domestic violence, sexual and gender-based violence by State and non-State actors, specifically within state institutions, such as military camps, army and places of detention;

(i) Implement impartial, gender-sensitive reporting mechanisms for victims of violence, and provide rehabilitation and support services, including safe houses, legal aid resources and health care.

11. Follow-up

95. **The commission of inquiry also recommends that the Government:**

(a) Seek technical assistance from OHCHR and other agencies, as appropriate, with a view to assist in the implementation of the present recommendations, as well as those made during the universal periodic review and by other human rights mechanisms;

(b) Collaborate with the Special Rapporteur in implementing her mandate and respond positively to her requests for an invitation to visit Eritrea;

(c) Cooperate with other international human rights mechanisms;

(d) Ensure an inclusive and comprehensive follow-up process to the universal periodic review, implement the recommendations made by treaty bodies, and submit overdue reports;

(e) Cooperate with the international community to allow those providing international humanitarian assistance unhindered access throughout the country.

96. **The commission of inquiry recommends that the international community:**

(a) Pending tangible progress in the situation of human rights, in particular the adoption of reforms that seriously address the problems identified in by the commission in the present report, continue to provide protection to all those who have fled and continue to flee Eritrea owing to severe violations of their rights or fear thereof;

(b) Respect the principle of non-refoulement and end bilateral and other arrangements that jeopardize the lives of those who seek asylum;

(c) Identify long-term solutions to help Eritrean refugees, including local integration in the first-asylum country and resettlement in third countries, and strengthen international solidarity in sharing the responsibility to care for Eritrean refugees and migrants;

(d) Promote channels of regular migration from Eritrea to reduce clandestine channels, in particular by ensuring that they no longer have to risk their

lives crossing the Mediterranean; in this regard, the issue of securing refugee routes should be considered at the international level to provide safe passage to fleeing persons;

(e) Promote inter-State cooperation to counter human smuggling and trafficking, while treating victims in accordance with international human rights standards;

(f) Criminalize the trade in people trafficking and people smuggling, which in this region predominantly affects Eritreans; and establish mechanisms to investigate, and provide resources to prosecute, those engaged in this trade;

(g) In engaging with the Eritrean authorities on solutions to stem the flow of asylum seekers from Eritrea, place human rights considerations at the forefront of any package of proposed abatement measures; furthermore, neighbouring Governments should train security sector personnel in gender-sensitive trafficking awareness;

(h) Keep Eritrea under close scrutiny until tangible progress in the situation of human rights is evident, and ensure the centrality of human rights in all engagement with the country;

(i) Clear conditions for a return to full, normal relations between Eritrea and the international community, including the participation of Eritrea in regional councils and mechanisms;

(j) Assist Eritrea and Ethiopia in solving border issues through diplomatic means.

97. **When negotiating development assistance and investment projects in Eritrea, Governments, non-governmental organizations and private sector companies should ensure that decent wages for locally engaged staff are an integral part of the agreement, and insist that wages effectively go to those doing the work. In negotiating access to the country and in proposing programmes and projects, organizations should ensure that a positive impact on the enjoyment of rights and freedoms of the people of Eritrea as recognized under international law is a central priority.**

98. **The commission of inquiry recommends that the United Nations, review and revise where necessary the Human Rights Up Front initiative for Eritrea in the light of the findings of the commission and ensure that all United Nations entities apply it consistently.**

99. **The commission of inquiry calls upon the International Labour Organization to address the issue of forced labour in Eritrea.**

100. **In deciding among its future projects, the United Nations Development Programme should prioritize support for the strengthening of the national statistics office of Eritrea.**

101. **OHCHR should report annually to the Human Rights Council and other appropriate United Nations organs on its efforts to assist the Government of Eritrea in the implementation of the recommendations made in the present report, as well as those made during the universal periodic review and by other human rights mechanisms.**

102. **The commission of inquiry recommends that the Human Rights Council:**

(a) Organize, at its thirtieth session, a high-level panel discussion on strategies to investigate the issue of human trafficking in North Africa and the

Mediterranean, with the involvement of all relevant actors and using both security and human rights frameworks;

(b) Renew the mandate of the Special Rapporteur on the situation of human rights in Eritrea, and request the mandate holder to, inter alia, work to promote and report on the implementation of the present recommendations, providing the additional resources necessary to do so;

(c) Mandate a relevant special procedure or otherwise direct an investigation of the extent to which the abuses identified by the commission constitute crimes against humanity;

(d) Request OHCHR to increase attention and resources to the situation of human rights in Eritrea by enhancing engagement with the Government with the aim of implementing the present recommendations, as well as those made during the universal periodic review and by other human rights mechanisms.

Annexes

[English only]

Annex I

Letter addressed to the President of Eritrea by the commission of inquiry

United Nations

COMMISSION OF INQUIRY ON HUMAN RIGHTS IN ERITREA

3 June 2015

Excellency,

Further to my letter of 14 October 2014, I am writing to you again in my capacity as Chair of the Commission of Inquiry on Human Rights in Eritrea.

In June 2014, the Human Rights Council established the Commission with the mandate to investigate all alleged violations of human rights in Eritrea and to report to it at its twenty-ninth session, starting in Geneva on 15 June.

The Commission undertook its investigation between the months of November 2014 and May 2015. I sincerely regret that in spite of repeated calls for access and for information related to the human rights situation, your Government decided not to engage with us and not to provide any cooperation. We are still ready to engage with you and your Government, should you wish to invite us to visit Eritrea and discuss the outcome of our investigation with you and your collaborators.

On the basis of the body of evidence collected from more than 700 testimonies, the Commission has concluded that systematic, widespread and gross human rights violations have been and are being committed in Eritrea under the authority of your Government. The enjoyment of rights and freedoms are severely curtailed in an overall context of a lack of rule of law.

The Commission also finds that the violations in the areas of extrajudicial executions, torture (including sexual torture), national service and forced labour may constitute crimes against humanity. The commission emphasizes that its present findings should not be interpreted as a conclusion that international crimes have not occurred in other areas.

The full report on the findings and conclusions of the recommendations, together with a shorter version of it are shared as annexes to this letter. They will be made public on 08 June 2015; and presented and discussed on 23 June, in the course of the Council's twenty-ninth session.

In light of the findings of the Commission and as President of Eritrea, President of the National Assembly and leader of the ruling party, the People's Front for Democracy and Justice, I exhort you to take immediate action to address the grave human rights situation in your country, in particular by ending impunity for officials guilty of gross human rights violations.

The Commission urges you and your Government to:

Implement fully and without further delay the 1997 Constitution. Any amendments to the Constitution should take place in a transparent and participatory manner and take into account Eritrea's obligations under international human rights law.

Acknowledge the existence of human rights violations and ensure accountability for past human rights violations, including but not limited to extrajudicial killings, enforced disappearances, torture, unlawful detention, sexual violence and forced labour, also within national service.

Cease with immediate effect the practice of enforced disappearance and all forms of extrajudicial executions, inter alia by discontinuing the shoot-to-kill policy that may be applicable at any border.

Immediately and unconditionally release all unlawfully and arbitrarily detained persons, including members of the G-15, journalists and members of religious groups.

Put an immediate end to the use of torture and other forms of ill-treatment.

Discontinue the indefinite national service by limiting it to 18 months for all current and future conscripts as envisaged by the National Service Proclamation.

Take immediate measures to ensure de facto gender equality and address all forms of violence against women, including domestic violence, sexual and gender-based violence by State and non-State actors.

The Commission's full recommendations are detailed in the reports attached to this letter. We hold the hope that you will give them serious consideration. We strongly believe that, if implemented, they would be of help to make Eritrea a State where rule of law is implemented and human rights respected.

The Commission avails itself of the opportunity to renew the expression of its highest consideration.

Please accept, Excellency, the assurances of my highest consideration.

Mike Smith
Chair
Commission of Inquiry on Human Rights in Eritrea

His Excellency
Mr. Isaias Afwerki
President of the State of Eritrea
Asmara

Annex II

List of detention facilities identified by the commission of inquiry

Detention facilities in Eritrea documented by the commission of inquiry

1. First Police Station
2. Second Police Station
3. Third Police Station
4. Fourth Police Station
5. Fifth Police Station
6. Sixth Police Station
7. Abi Adi
8. Aderser
9. Adi Abeito
10. Adi Imer
11. Adi Keih
12. Adi Nefas
13. Adi Quala
14. Afabet
15. Agip
16. Agordat
17. Ala
18. Arag
19. Assab
20. Baharia
21. Barentu Military Intelligence Unit
22. Barentu Military Unit
23. Barentu Police Station
24. Barentu Prima Country
25. Barentu Secret Prison House
26. Dahlak Kebir
27. Darsal
28. Debarwa
29. Dekemhare
30. Dengolo
31. Dugona
32. Eiraeiro
33. Gahteley
34. Gedem
35. Gelalo
36. Gergera
37. Haddis Ma'askar
38. Hagaz
39. Halhal
40. Hashferay
41. Idaga Arbi
42. Karshele
43. Keren
44. Mai Duma

45. Mai Edaga
46. Mai Nefhi
47. Mai Serwa
48. Mai Temenay
49. Massawa
50. Me'eter
51. Mendefera
52. Nakfa
53. Nakura
54. Sawa
55. Segeneti
56. Sembel
57. Senafe
58. Serejeka
59. Sheila Tessenei
60. Tehadasso
61. Tessenei
62. Track B
63. Track C
64. Tsetser
65. Tsorona
66. Under Tessenei
67. Wi'a
68. Zara

Additional detention facilities reported in the course of the investigation

1. Aba Shawal Police Station
2. Aboy Regum
3. Ali Giddeh
4. Asha Golgol
5. Auna Wato
6. Baleko
7. Dahrotay
8. Duarwa
9. Edaga Arbi
10. Fila Ber'ed
11. Embatkala
12. Garage Fenkel
13. Ginda Police Station
14. Glas
15. Golij
16. Go'igne
17. Jufa
18. Keru
19. Kiloma
20. Klima
21. Kudo-Felasi
22. Metkelabet
23. Shilalo

24. Laba Stifanos
25. Isererat
26. Villagio Prison House
27. Leio

United Nations A/HRC/29/43

General Assembly

Distr.: General
29 April 2015

Original: English

Human Rights Council
Twenty-ninth session
Agenda item 4
Human rights situations that require the Council's attention

Report of the Special Rapporteur on the situation of human rights in Belarus, Miklós Haraszti*

Summary

In the report, the Special Rapporteur sets forth the developments in human rights since his previous report (A/HRC/26/44). The Special Rapporteur outlines major current concerns in detail and describes the general situation, which for the past two decades has been characterized by a systemic denial of human rights to citizens by means of an intentional combination of restrictive laws and abusive practices. The findings of the Special Rapporteur during the period under review indicated that, while no substantial reform was discernible and violations continued, the legal and administrative environment for the enjoyment of human rights had further deteriorated, in particular with regard to the rights to free expression, association and assembly, to just and favourable conditions for work and to the freedom to choose one's workplace. The Special Rapporteur concludes the report with recommendations on improving the situation, both step-by-step and in a comprehensive manner.

* Late submission.

GE.15-08562 (E)

1508562

Please recycle

Contents

		Paragraphs	Page
I.	Introduction	1 – 20	3
	A. Background	1 – 16	3
	B. Methodology	17 – 20	4
II.	Rule of law	21 – 27	5
III.	Engagement with the international human rights system	28 – 33	6
IV.	Human rights concerns	34 – 126	7
	A. Independence of the judiciary	34 – 40	7
	B. Independence of lawyers	41 – 42	8
	C. Torture and other cruel, inhuman or degrading treatment or punishment	43 – 47	9
	D. Prison conditions	48 – 52	10
	E. Arbitrary arrest and detention	53 – 62	11
	F. Imprisonment of political opponents, human rights defenders and activists	63 – 65	12
	G. Enforced disappearances	66 – 67	12
	H. Death penalty	68 – 75	13
	I. Freedom of opinion and expression	76 – 86	14
	J. Freedom of peaceful assembly	87 – 90	15
	K. Freedom of association and human rights defenders	91 – 101	16
	L. Elections	102 – 104	18
	M. Trade unions	105 – 108	18
	N. Just and favourable conditions of work	109 – 111	19
	O. Forced labour	112 – 114	19
	P. Discrimination	115 – 125	20
	Q. Cultural rights	126	22
V.	Conclusion and recommendations	127 – 131	22

I. Introduction

A. Background

1. The Human Rights Council established the mandate of the Special Rapporteur on the situation of human rights in Belarus in its resolution 20/13. The current mandate holder assumed his functions on 1 November 2012. The Council has twice extended the mandate for one year, in its resolutions 23/15 and 26/25.

2. In the present report, the Special Rapporteur describes the prevailing situation of human rights in Belarus since his previous report to the Human Rights Council (A/HRC/26/44). It covers information received up until 30 March 2015.

3. The findings of the Special Rapporteur for the period under review brought to light the fact that the situation of human rights in Belarus has not improved, and that widespread disrespect for human rights, in particular civil and political rights, continues. The Special Rapporteur is concerned about the lack of progress made to address the systematic and systemic denial of human rights.

4. Important areas of human rights governance have deteriorated in Belarus, inter alia, the legal, regulatory and administrative environment for the Internet and the media. The rights to freedom of assembly and association have been further limited by new restrictive provisions.

5. The practice of short-term detention of activists, journalists and human rights defenders has continued and increased. Administrative and "preventive" arrests continue to be used systematically and arbitrarily against citizens who seek to exercise independently and freely their rights to freedom of expression, association and peaceful assembly.

6. Compared to previous years, fewer persons were incarcerated for long prison terms in retaliation for their political activities; nonetheless their situation has remained unchanged. Among them, a former presidential candidate has remained behind bars since 2011. Besides Ales Bialiatski, two political prisoners were released in 2014, albeit after having served their full prison terms. Nothing has been done to review any of their cases or to rehabilitate them.

7. A highly dissuasive, permission-based regime is still the main tool used to deny civil rights and to curtail the freedoms of expression and opinion, information, association and peaceful assembly, which are all key factors in full and inclusive participation in public life. The permission-based regime is further aggravated by the criminalization of all unsanctioned public undertakings and organizations, aimed at dissuading participation in and support for such associations; indeed, mere attendance at events of this type may lead to criminal or administrative charges and discrimination in various aspects of life.

8. The judiciary continues to be fully dependent on the President, in spite of some recent reforms. Besides the lack of independence of the courts and law enforcement agencies, intimidation is used against lawyers, who are forced to join the bar association that is directly supervised by the Government.

9. Labour rights continue to be denied, and independent labour unions are suppressed. The rights to just and favourable work conditions and to the freedom to choose one's workplace have been further restricted by new legal provisions.

10. The Special Rapporteur also noted that there has been little or no progress with regard to developments welcomed in the past, such as the stated intention to establish a national human rights institution and a parliamentary working group on the death penalty.

11. The absence of a national human rights institution is one of the reasons why the institutional setting for the promotion and protection of human rights in the country remains deficient. In 2010, the Government accepted a recommendation made during its universal periodic review on considering the establishment of a national human rights institution in accordance with the Paris Principles. The Special Rapporteur notes that, although according to a report issued by the Ministry of Foreign Affairs (http://mfa.gov.by/upload/UPR_Belarus_National_Report.pdf), discussions thereon are ongoing, after four years Belarus has still not established such an institution.

12. The Special Rapporteur found no information on progress made by the parliamentary working group on the death penalty established in 2010. In the meantime, capital punishment continues to be used in Belarus with no guarantee of due process. In 2014, three persons were executed, and a new death sentence was pronounced on 18 March 2015.[1]

13. The unwillingness of the Government to address chronic human rights concerns and the absolute impunity for human rights violations contribute to their perpetuation. The Special Rapporteur has underlined the systemic and systematic nature of human rights violations in Belarus in his previous reports. The United Nations High Commissioner for Human Rights had earlier concluded that deficiencies pertaining to human rights in Belarus were of "a systemic nature" (A/HRC/20/8, para. 74). The regrettable lack of governmental cooperation on the mandate underlines the need to report on and monitor the situation of human rights in Belarus.

14. It is therefore critical that the Human Rights Council maintain its scrutiny of the serious human rights situation in Belarus, even more so in the light of the presidential elections to be held at the end of 2015.

15. With the incumbent president having been in office for nearly 20 years and the absence of an opposition in Parliament, there has been a pattern of mass-scale pressure on and harassment against civil society actors in Belarus amounting to recurring violence, specifically during or in the immediate aftermath of presidential and parliamentary elections and the announcement of their preordained outcomes. The most recent example was the presidential election held on 19 December 2010, when more than 600 people were detained and dozens of civil society activists, journalists, politicians and their supporters were arrested. Several observers, researchers and human rights experts are concerned about similar severe human rights violations in the electoral process if circumstances of free and fair elections are not guaranteed. Indeed, the Special Rapporteur highlights the direct correlation between a freely functioning civil society and the enjoyment of the right to genuine periodic elections guaranteeing the free expression of the will of the electors, in accordance with article 25 (b) of the International Covenant on Civil and Political Rights.

16. It is also with the presidential elections in mind that the Special Rapporteur addresses recommendations to the Government in order to protect human rights in the context of the elections. He reiterates his readiness to cooperate with the authorities.

B. Methodology

17. Independence, impartiality and objectivity, and cooperation with all stakeholders are the guiding principles of the work conducted by the Special Rapporteur.

---

[1] European Union delegation to the United Nations, "Statement by the Spokesperson on a death sentence in Belarus", 19 March 2015.

18. Owing to the Government's continued refusal to cooperate with the Special Rapporteur, he has yet to have access to the country; nevertheless, he has continued to seek the cooperation of the Government in order to engage in a constructive dialogue. He sought meetings with the Permanent Representatives of Belarus to the United Nations in New York and Geneva, and submitted requests for an official visit to the country. The Special Rapporteur has received no response to any of his correspondence, and again deplores that this situation limits the collection and analysis of first-hand information from in-country sources, including from the Government.

19. Notwithstanding such constraints, the Special Rapporteur endeavoured to collect information from primary sources, which is crucial to ensure that his report is as accurate, time-bound and measured as possible. He frequently undertook consultations with victims of violations, representatives of civil society, human rights experts and diplomats. If the Special Rapporteur were authorized to visit the country, he would be able to develop findings on the proclaimed successes in the sphere of economic and social rights, including through a dialogue with the Government and other stakeholders.

20. The Special Rapporteur is grateful for the cooperation received from many stakeholders living in Belarus. In the present report, he refers to cases that are emblematic of the nature of the human rights violations in Belarus. They do not, however, reflect the full list of allegations submitted to the Special Rapporteur.

II. Rule of law

21. As in previous reporting periods, presidential decrees continue to be used as the main legislative mechanism in Belarus (A/HRC/23/52, para. 37; A/HRC/26/44, para. 21). While Parliament is responsible for developing and adopting legislation, it is the Presidential Administration that prepares the drafts. President's decrees can overrule existing legislation, including constitutional law, on any issue. The Special Rapporteur for example noted this in the context of Presidential Decree No. 6 of 29 November 2013 on the improvement of the judicial system, as confirmed by information given on the website of the Brest Regional Court (www.oblsud.vbreste.by).

22. A recent example is Presidential Decree No. 18, which outlines how courts should apply legislation on the recognition and execution of judgements handed down by foreign courts and arbitral awards, issued on 23 December 2014 by the Plenary of the Supreme Court. The purpose of the decree, as described in the preamble thereto, was to ensure "the unity of legal practice in the application of international treaties and to improve the administration of justice during the consideration of cases concerning the recognition and execution of judgements handed down by foreign courts or arbitrages (arbitral courts) in the Republic of Belarus by courts of general jurisdiction of the Republic of Belarus."[2]

23. The introduction of new or revised legislation or adoption of amendments does not result from a consultative process, despite frequent requests by civil society organizations to be included in the process.

24. A law on the judicial proceedings of the Constitutional Court (www.kc.gov.by), which came into force on 17 April 2014, allows bodies other than those listed in article 116, part 4 of the Constitution, including government bodies, other organizations and citizens collectively or individually, to submit requests to the Court for an advisory opinion on

[2] Belarusian Helsinki Committee et al. Analytical review of the human rights situation in Belarus, October–December 2014 (available at http://belhelcom.org/en/node/19697), p. 15.

legislative acts. The Court may also initiate proceedings on its own initiative (art. 158). In its annual report for 2014, the Court stated that it received 780 requests under the new law and had examined three cases, of which two on labour law and one on pensions. The report does not, however, provide disaggregated data, and the decisions of the Court are not made public.

25. With regard to positive developments in national legislation, the amendments to the law on public associations and on political parties, which came into force on 20 February 2014, allow in part for the reduction in the required number of founders from various regions required to establish a public organization and increased requirements for the dissolution of public associations (A/69/307, para. 45). The permission-based process itself of registering associations has, however, not changed, allowing for arbitrary, selective and politicized decisions on registration.

26. On 17 December 2014, the Parliament passed amendments to the law on mass media, allowing the Government to increase significantly its pressure on the independent media.[3] The amendments provide in particular that owners of online resources are responsible for the content posted, including material considered to be extremist information or "other information capable of harming the national interests" of Belarus; the Ministry of Information may block access to online resources without court authorization if two warnings have been issued within 12 months and the scope for reasons to issue warnings has been expanded. There are also concerns that the requirement for accreditation will be used to restrict journalists' access to information.[4]

27. Except for the requirement of registration, the law on mass media as amended will also be fully applicable to online media. Specifically, authorities in Belarus have stated that the "dissemination of information that may …pose a threat to national security may result in the blocking of websites."[5]

III. Engagement with the international human rights system

28. Over the years, various international human rights mechanisms have made recommendations to bring legislation, policies and practice into line with the commitments of Belarus under international human rights law. The implementation of these recommendations remains very limited.

29. The Special Rapporteur notes that two national consultations were held in 2014 with the aim of implementing the recommendations from the first universal periodic review of Belarus, to which only registered non-governmental organizations were invited to attend. Follow-up documents were not made available to the public.[6] The Special Rapporteur also notes that, in the preparation of the second review of Belarus, only registered non-governmental organizations were consulted.

30. Since the previous report of the Special Rapporteur, a number of cases have been filed under the Optional Protocol to the International Covenant on Civil and Political Rights. At its 112th session, in October 2014, the Human Rights Committee adopted views

[3] Viasna Human Rights Center, "Situation of Human Rights in Belarus in December 2014", 13 January 2015.

[4] Coalition report submitted on 15 September 2014 by Belarusian non-governmental organizations for the second universal periodic review of Belarus, p. 9.

[5] Viasna, "Situation of Human Rights in Belarus" (see footnote 3).

[6] Coalition report (see footnote 4), p. 3.

on 12 communications with regard to Belarus, most of which regarding the freedoms of association, assembly and expression.[7]

31. Belarus has continued to challenge the registration of cases filed under the Optional Protocol on procedural grounds. To date, the Human Rights Committee has not been satisfied by the measures taken by the State party to give effect to its recommendations.

32. The Special Rapporteur welcomes the adoption by Belarus of the optional reporting procedure of the Human Rights Committee.

33. The Special Rapporteur encourages Belarus to respond positively to the requests by special procedures to visit the country, including the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders.

IV. Human rights concerns

A. Independence of the judiciary

34. Although Presidential Decree No. 6 of November 2013, aimed at reforming the judicial system of Belarus, was a welcome step, it was reported that, as at the end of 2014, none of the changes removing the powers established in the Code of Judicial System and Status of Judges had been effectively introduced.[8]

35. The Special Rapporteur remains concerned at the extensive powers of the General Directorate for Relations with Legislative and Judicial Bodies and Issues of Citizenship and Pardon, included within the Presidential Administration, which submits proposals regarding the appointment and dismissal of judges and other related judicial functions for the President's consideration.[9] The Special Rapporteur on the independence of judges and lawyers has recommended that a body similar to models found in other countries under the title of Judicial Council, Council of Judges or Supreme/High Council of Judges be established in Belarus (see E/CN.4/2001/65/Add. 1). The Special Rapporteur encourages the implementation of that recommendation and the establishment of such a body, which would be composed mainly of judges and perform the functions currently carried out by the General Directorate.

36. The Special Rapporteur notes the positive development represented by the adoption on 20 December 2013 of Order No. 11, which is aimed at increasing transparency in the

[7] See CCPR/C/112/D/1773/2008 (Kozulina v Belarus), CCPR/C/112/D/1906/2009 (Yuzepchuk v Belarus), CCPR/C/112/D/1929/2010 (Lozenko v Belarus), CCPR/C/112/D/1952/2010 (Symonik v Belarus), CCPR/C/112/D/1987/2010 (Stambrovsky v Belarus), CCPR/C/112/D/1989/2010 (E.V v Belarus), CCPR/C/112/D/1999/2010 (Evrezov, Nepomnyaschikh, Polyakov and Rybchenko v Belarus), CCPR/C/112/D/2029/2011 (Praded v Belarus), CCPR/C/112/D/2114/2011 (Sudalenko v Belarus), CCPR/C/112/D/2153/2012 (Kalyakin v Belarus), CCPR/C/112/D/2156/2012 (Nepomnyaschikh v Belarus) and CCPR/C/112/D/2165/2012 (Pinchuk v Belarus).

[8] Belarusian Helsinki Committee, Independence of the Judiciary in the Republic of Belarus, 2014, pp. 4-5.

[9] Coalition report (see footnote 4), p. 7.

judicial system and ensuring the dissemination of information on the work of the courts, and encourages the courts to adopt the provisions of the Order.[10]

37. In particular, the process for appointing judges should be as transparent as possible. The executive authorities continue to play a significant role in the appointment of judges. The majority of judges are also often appointed for a short tenure, a fact that increases their dependence on the executive authorities that appoint them.

38. The Special Rapporteur calls upon the authorities of Belarus to make public the guidelines they use for the selection and appointment of judges. While decrees relating to the appointment of judges are public, the criteria used to reach these decisions remain unknown to both the general public and candidates for judicial office.[11]

39. Since January 2007, the Code of Judicial Systems and Status of Judges has required judges to be appointed for a term of five years; judges may also be appointed for a further term, or indefinitely.[12] The Special Rapporteur notes with concern that this has led to fewer judges being appointed to tenured positions, and the negative impact this could have on judicial independence.

40. With regard to the dismissal of judges, the President retains extensive powers to dismiss a sitting judge without taking into considerations any further opinions, and "to apply a disciplinary penalty on judges without any public or legally defined procedure of examination".[13]

B. Independence of lawyers

41. United Nations human rights mechanisms, including the universal periodic review, have repeatedly called upon Belarus to respond to the concerns of defence lawyers and to address the pattern of intimidation against lawyers and of interference in their work (see A/HRC/15/16, paras. 50 and 98.26). The continued failure to address this issue has had a chilling effect on the independence of lawyers.[14] Like other special procedures mandate holders, the Special Rapporteur is concerned by the frequent targeting of lawyers working on human rights cases (A/68/276, para. 97). He reiterates his call upon Belarus to restore the licences of lawyers revoked after they represented candidates in the 2010 presidential elections.[15]

42. Domestic legislation, including Presidential Decree No. 12, undermines the independence of the legal profession by subordinating lawyers to the control of the Ministry of Justice and introducing obligatory membership in a State-controlled bar association. The Special Rapporteur calls upon Belarus to take all appropriate measures, including a review of the Constitution and laws, to meet the international minimum standards as set out in the

[10] Coalition report (see footnote 4), p. 8.

[11] Belarusian Helsinki Committee, Independence of the Judiciary in the Republic of Belarus, 2014, p. 5.

[12] Ibid., p. 7.

[13] Eastern Partnership Civil Society Forum, Judicial Independence in the Eastern Partnership Countries, 2011, p. 20.

[14] CAT/C/BLR/CO/4, para. 12 (a); A/HRC/17/30/Add.1, para. 101; A/HRC/23/52, para. 64; A/68/276, para. 76; A/HRC/25/55/Add.3, para. 61.

[15] See also CAT/C/BLR/CO/4, para. 12(c); E/CN.4/2001/65/Add.1, para. 123 (c); and A/HRC/23/52, paras. 65 and 119 (f).

Basic Principles on the Role of Lawyers so as to ensure that judges and lawyers are independent of any political or other external pressure.[16]

C. Torture and other cruel, inhuman or degrading treatment or punishment

43. The Special Rapporteur notes that Belarus has yet to make declarations under articles 21 and 22 of the Convention against Torture and other cruel, inhuman or degrading treatment or punishment and to accede to the Optional Protocol thereto. Taking note of the recent amendments to the Criminal Code and the Code of Criminal Procedure, he calls upon Belarus to implement the recommendations made by the Committee against Torture[17] and to integrate fully a definition of torture in accordance with the Convention into all relevant legislation.

44. An effective mechanism for the investigation of complaints of torture by prisoners or detainees is still lacking in Belarus. Officials accused of engaging in torture or ill-treatment are not suspended while investigations are conducted. Furthermore, there are reports that complaints cannot be submitted to the Prosecutor's Office from places of detention and that complainants are punished by solitary confinement or other measures of physical and psychological maltreatment. With regard to prosecuting alleged acts of torture, to date there has been no successful prosecution in the domestic courts of individuals accused of torture or order to compensate victims for the harm caused.[18]

45. The Special Rapporteur encourages the Government to develop an independent and effective mechanism to facilitate the submission of complaints by victims of torture and ill-treatment to public authorities in accordance with the recommendations made by the Committee against Torture.[19]

46. The human right defender Ales Bialiatski was released by the authorities in June 2014. The Special Rapporteur notes with concern that, while in custody, Mr. Bialiatski was subjected to psychological and physical pressure while deprived of liberty and to repeated arbitrary forms of disciplinary punishment for allegedly violating the rules of the penal colony. Punishment included limited access to relatives, lawyers, correspondence and communications, and practices that could be viewed as amounting to ill-treatment or even torture.

47. The Special Rapporteur reiterates that as Belarus moves towards the next presidential election in 2015, it is worrying that none of the previously alleged cases of torture of political candidates, activists and human rights defenders while in detention has been clarified by the authorities. These cases include allegations of torture and ill-treatment of the 2010 presidential candidates Andrei Sannikau, after his arrest on 19 December 2010.

---

[16] See also CCPR/C/79/Add.86, para. 14; Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 4 (A/56/44), paras. 45 (g) and 46 (d); CAT/C/BLR/CO/4, para 12; E/CN.4/2001/65/Add.1, paras. 116 and 123 (b); E/CN.4/2005/6/Add.3, paras 45 and 82 (a); E/CN.4/2005/35, paras. 33 and 93; A/HRC/20/8, para. 75 (i); A/HRC/23/52, para. 67; and A/68/276, para. 118 (g).

[17] See Coalition report (see footnote 4), pp. 5-7; and CAT/C/BLR/CO/4.

[18] Coalition report (see footnote 4), p. 6.

[19] See Follow-up to the concluding observations (CAT/C/BLR/CO/4) of the Committee against Torture adopted at the 47th Session for the Republic of Belarus; report prepared by the Belarusian public initiative "Human Rights Activists Against Torture" in partnership with the Belarusian Human Rights House and the Human Rights House Foundation, March 2014.

and Ales Mikhalevich, at the high security prison in January 2011 (A/69/307, para. 71). Another case is that of Ihar Tsikhanyuk from the human rights organization Lambda, which protects the rights of LGBTI persons. In 2012, Mr. Tsikhanyuk was reportedly taken to a police station where he was punched, abused and threatened with violence.[20] To date, there has been no investigation into these cases or attempts to bring those responsible to justice.

D. Prison conditions

48. Article 62 of the Constitution and article 41 of the Code of Criminal Procedure codify the legal right of citizens of Belarus to legal assistance and counsel. Despite this legal safeguard, the Special Rapporteur recognizes the continued complaints of detainees that they are often denied prompt access to counsel while in detention.[21]

49. The Special Rapporteur also notes similar complaints relating to prompt access to physicians. While there is legislation in place that provides for the medical examination of injured detainees by health-care workers, care may only be accorded at the discretion of the head of the facility. Appealing a refusal of examination can take more than 10 days during which time the physical harm caused might be healed. Furthermore, detainees are required to cover the cost of such medical examinations from their own personal funds, creating a disadvantage for individuals without any such funds.[22]

50. Detainees have also lodged complaints relating to their inability to contact family members while in detention, as exemplified through the experiences of the political prisoners Mikalai Statkevich and Ihar Alinevich. Both reported that letters had been rejected by prison censorship, and that letters from and to family members were not being delivered.[23]

51. The Special Rapporteur received information that, in October 2014, the Department for the Execution of Judgments of the Ministry of the Internal Affairs had issued a permit for Platforma Innovation, a non-governmental organization, to visit penitentiary institutions in Belarus.[24] This is a welcome development. The Special Rapporteur stresses the importance of unfettered access to all places of detention, which should include police cells, detention centres, security service premises, administrative detention areas, detention units of medical and psychiatric institutions and prisons.

52. The Special Rapporteur is concerned that the Mahiliou Human Rights Center, the only human rights organization with a representative who is a member of the public supervisory commission monitoring penal institutions, is under constant pressure to cease activities by the authorities.[25]

---

[20] Amnesty International Cases Document, 2 December 2013.

[21] Follow-up to the concluding observations (CAT/C/BLR/CO/4) of the Committee against Torture (see footnote 19), p. 2.

[22] Ibid.

[23] Viasna, "Situation of Human Rights in Belarus" (see footnote 3).

[24] Civic Belarus, "'Platforma' is going to visit all prisons and penal colonies in Belarus", 22 October 2015.

[25] Viasna Human Rights Center, "Belarus: The only registered regional human rights organisation under the threat of dissolution", 17 March 2015.

E. Arbitrary arrest and detention

53. The Special Rapporteur received credible allegations of a persistent and expanding practice of preventive arrests, administrative arrests and arbitrary detention of citizens in the period immediately preceding important political or social events. This practice has been used in Belarus since 2006,[26] and has become systemic.

54. According to documented information provided by a non-governmental organization, all records with regard to the administrative prosecution of protestors and opposition representatives were broken in the first half of 2014. Most cases were associated with preventative arrests before and after conducting peaceful demonstrations or gatherings on civil and political rights (A/69/307, para. 66). The policy continued throughout the year, characterized by the use of repeated short-term "preventive" and administrative arrest of members of human rights organizations.

55. There is an emerging pattern in the misuse of these measures to discourage public civic activism in the whole of society; for example, Pavel Vinogradov, an activist from youth organization Zmena, was arrested 15 times in 2014. The most common reasons for arrest of activists were for "swearing in public", "hooliganism" or "failure to obey police officers orders", or all three charges simultaneously, which leads to cumulative sanctions.

56. At least 37 political activists were arrested before the World Ice Hockey Championship held in Minsk in May 2014. All of those arrested had been involved in protest actions, and included representatives of various social and political groups, such as Malady (Young) Front, web activists, and members of football fan clubs.[27]

57. Prior to the World Ice Hockey Championship, local authorities also "cleansed" Minsk of what were referred to as "asocial elements", namely, homeless persons, sex workers, and individuals suffering from alcoholism. While the exact number of persons subjected to this practice is not known, the Ministry of Internal Affairs reported that at least 350 prostitutes had been subjected to administrative arrest during this period of time.[28]

58. The Special Rapporteur also received reports that, in 2014, eight activists had been subjected to preventive detention prior to the annual demonstration Chernobyl Way, held on the anniversary of the Chernobyl power plant disaster.[29]

59. The activists and former political prisoners Zmitser Dashkevich and Alexander Frantskevich were each sentenced to 25 days of administrative arrest, covering both Chernobyl Way and the World Ice Hockey Championships.[30]

60. Administrative prosecutions also concern other spheres of public life and events. In January 2015, fans of a local football team in Salihorsk were detained for holding an unauthorized fireworks show.[31] It was also reported that, on several occasions, similar arrests were made at rock concerts.

61. The above-mentioned arrests and detentions are justified under section 17.1 of the Code of Administrative Offences, referred to deliberate acts that violate public order,

---

[26] International Federation for Human Rights (FIDH), Arbitrary Preventive Detention of Activists in Belarus, 29 September 2014, p. 6.

[27] See ibid and FIDH, Arbitrary Preventive Detention (see footnote 26), pp. 7, 18-19.

[28] FIDH, Arbitrary Preventive Detention (see footnote 26), p. 7.

[29] Ibid., p. 18.

[30] Ibid.

[31] Vadzim Bylina, "Belarusian authorities crack down on football fans", Belarus Digest, 23 February 2015.

Individuals concerned are often not informed of the charges against them, nor are their rights explained, and families are not informed of their detention.[32]

62. Furthermore, in the court hearings of such administrative cases, only the testimony of police officers is used as the basis for court rulings in the case of preventive detentions. Any witnesses brought by the defence are ignored. Hearings are held in closed sessions. Issues concerning the lodging of appeals to the initial decisions of the court were also reported.

F. Imprisonment of political opponents, human rights defenders and activists

63. During the period under review, several long-term political prisoners were released. Ales Bialiatski, founder of the Viasna Human Rights Center, who was sentenced in 2011 on charges of tax evasion, was released in June 2014 after having served three years of his four-and-a-half-year sentence. The Special Rapporteur welcomes his release. He also notes the release of two political prisoners, Vasil Parfiankou and Eduard Lobau, in December 2014, although after they had served their full sentences. None of them was rehabilitated, nor were their cases reviewed. The Special Rapporteur reiterates his call for the immediate and unconditional release of all other opponents and activists whose sentences appear to be politically motivated, and for their full rehabilitation.[33]

64. The Special Rapporteur has been informed that, since June 2014, the list of individuals having been or being held in detention on politically motivated charges include Evgeniy Vaskovich, Igor Olinevich, Vasily Prokopenko and Mikalai Statkevich. Ihar Alinevich, Mikalai Dziadok, Artisom Prakapenka and Yury Rubtsou.[34]

65. The 2010 presidential candidate Mikalai Statkevich remains in detention, serving six years in prison on charges of organizing mass riots, personal violence and resistance to public agents.[35] On 12 August 2014, Andrey Bondarenko, an advocate for prisoner rights from Platforma Innovation, a non-governmental organization, was sentenced to three years in prison for hooliganism.[36] On 22 December 2014, Yury Rubtsou began serving an 18-month sentence, convicted of insulting a judge during an administrative hearing, which was held in closed session.[37] An activist from Gomel, he was first arrested in November 2013 during a demonstration for wearing a T-shirt on which was written "Lukashenko, go away!". He has since been repeatedly sentenced to terms of administrative detention.

G. Enforced disappearances

66. There has been no progress in solving the outstanding cases of enforced disappearance dating back to 1999 and 2000, when Viktar Hanchar, a former member of Parliament, and his associate, Anatol Krasouski, as well as Yury Zakharenko, former Minister of the Interior, and Dimitry Zavadsky, an investigative journalist, were abducted.

---

[32] FIDH, Arbitrary Preventive Detention (see footnote 26), pp. 13-15.

[33] OHCHR, "Belarus: 'Rights Defender Ales Bialiatski released, but other political prisoners remain in jail' – UN expert", press release, 24 June 2014.

[34] See Human Rights Watch, Human Rights Watch UPR Submission to UNHRC: Belarus, 17 September 2014, and FIDH, Arbitrary Preventive Detention (see footnote 26).

[35] OHCHR, "Belarus: 'Rights Defender Ales Bialiatski released'" (see footnote 33).

[36] Human Rights Watch, UPR Submission (see footnote 34).

[37] Viasna, "Situation of Human Rights in Belarus" (see footnote 3).

All were noted political opponents of the President. According to numerous testimonies and accounts collected by the Working Group on Enforced or Involuntary Disappearances and the Human Rights Committee, the disappearances, some of which were committed on busy streets, were assisted by actual and former members of the law enforcement agencies. The authorities merely notify the relatives of the victims every three months that there is "no result" in any of the cases and extend the investigation for a further three months.

67. The Special Rapporteur reiterates his call that the fate of the disappeared persons urgently be investigated, given that, until the cases are solved, trust in the judiciary and the public authorities cannot be restored.

H. Death penalty

68. Since 2010, 10 people – Andrei Zhuk, Vasil Yuzepchuk, Andrei Burdyka, Aleh Hryshkavets, Ihar Mialik, Uladzislau Kavaliou, Dzmitry Kanavalau, Rygor Yuzepchuk, Pavel Sialiun and Alyaksandr Hrynou – have been executed in Belarus.[38] In 2014 alone, there were three executions – of Alyaksandr Hrynou, Pavel Syalun and Rygor Yuzepchuk – after a period of 24 months with no executions.

69. The Special Rapporteur is concerned at a new death sentence that was handed down on 18 March 2015 by the Rechytsa district court against Siarhei Ivanou at the end of a trial which had been held in camera.[39]

70. The Special Rapporteur is concerned that death sentences continue to be implemented while individual appeals in these cases have been registered with the Human Rights Committee, and the Government has been informed that emergency proceedings regarding these cases have been launched.[40] When Alyaksandr Hrunou was executed in November 2014, his case was pending before the Committee, which subsequently expressed its concern that Belarus had "executed a person whose complaint was still under consideration by the Committee".[41]

71. Pavel Syalun and Rygor Yuzepchuk were executed in April 2014.[42] The Special Rapporteur notes the statement by Pavel Syalun's mother, who was informed of the execution only when she came to visit her son at the prison, where she was told that "He has departed, in accordance with his sentence" (see A/HRC/26/NGO/113, p. 2). Similarly, the mother of Alyaksandr Hrunou learned of the execution days after it took place, when she received a parcel with his clothes from the penitentiary.

72. The establishment in December 2012 of a parliamentary working group on the death penalty was viewed by the Special Rapporteur as a promising development (A/HRC/26/44, para. 70). However, according to information available, there has not been any progress to date.

---

[38] See Coalition report (see footnote 4), p. 4, and Belarus Actions, "Urgent Action: Belarus must stop imminent execution: Eduard Lykau", 11 November 2014.

[39] Council of Europe Parliamentary Assembly, "Death penalty: concern at the latest events in Belarus and Russia", 20 March 2015.

[40] FIDH, Forced Labour and Pervasive Violations of Workers' Rights in Belarus, 20 December 2014, p. 9.

[41] OHCHR, "UN Human Rights Committee deplores Belarus execution", press release, 14 November 2014.

[42] Human Rights Watch, UPR Submission (see footnote 34).

73. During a press conference held in Minsk on 29 January 2015, reported by the agency Minsk Novosti, the President spoke out once again in favour of the death penalty, stating that he was "increasingly inclined to believe that, for wilful killing, we should put a person against the wall".

74. The Special Rapporteur remains concerned that those subject to the death penalty in Belarus are being denied a fair trial,[43] that the date and time of executions are not reported, the bodies of the executed are not returned to relatives and the location of the burial site is not disclosed.[44]

75. At its universal periodic review in 2010, Belarus accepted to respect minimum standards with regard to the death penalty (see A/HRC/15/16, para. 97.23).

I. Freedom of opinion and expression

76. During the period under review, major legal changes further aggravated the situation of the right to free expression and media pluralism, and repressions against independent journalists and publishers continued.

77. The law on mass media has had a negative impact on freedom of expression on the Internet: the authorities arbitrarily block websites containing information that they consider is a threat to State interests. Several Internet sites were blocked on 19 December 2014, prior even to the announced date of entry into force of the new legislation. Access was permanently or temporarily cut to a great number of information websites (including belapan.com, belapan.by, naviny.by, belaruspartisan.org, charter97.org, udf.by, 21.by, gazetaby.com and zautra.by) without any reason given.[45]

78. On 27 March 2015, Belarusian Internet providers blocked Charter97, Belaruspartisan and Viasna, the most important civic news websites. The blocking notice referred to Presidential Decree No. 60 of 2010.[46]

79. The amendments have also had an impact on traditional mass media. Distributors of printed media, including bookshops, and broadcasters must register with the Ministry of Information. Other domestic legislation, such as criminal provisions and anti-extremism laws, are being used to restrict freedom of expression. In particular, the Council of Ministers adopted resolution No. 810 on 21 August 2014, in which it created an expert committee on evaluation of information products for signs of extremism. The Special Rapporteur is concerned about the potentially broad interpretations of "extremism" and "extremist materials" in the implementation of the resolution.[47]

80. The Special Rapporteur also expresses concern at the ongoing attacks on journalists of the independent print and Internet media who face arbitrary arrests, warnings and criminal convictions, as well as administrative prosecutions.

---

[43] See A/HRC/26/NGO/113.

[44] OHCHR, "Halt further executions – UN expert calls on Belarus for an immediate death sentence moratorium", press release, 25 April 2014.

[45] Viasna, "Situation of Human Rights in Belarus" (see footnote 3).

[46] BAJ, "Some providers totally block Charter97, Belaruspartisan and Viasna", 27 March 2015.

[47] See Belarusian Helsinki Committee et al. Analytical report, July - September 2014 (available at http://belhelcom.org/sites/default/files/ANALYTICAL%20REPORT%20JULY%20SEPTEMBER.pdf).

81. In the first half of 2014, the authorities arbitrarily detained at least 17 journalists. Charges included "hooliganism", while penalties included courts imposed fines and up to 10 days of detention.

82. The Prosecutor's Office and the State Secretary Committee continued to issue warnings to Belarusian journalists for cooperating with media registered in a foreign country, mostly on the grounds that they had worked without accreditation.[48] In 2014, the Prosecutor's Office issued warnings to six local freelance journalists because they worked with foreign media outlets.[49]

83. On 2 December 2014, a freelance journalist, Andrei Myaleshka from Grodno, was fined 6 million roubles – the third fine in 2014 for the "illegal exercise of journalism in Belarus" – for his work with Radio Razyja, which broadcasts to Belarus from Poland.[50] On 25 September 2014, Maryna Malchanava in Bobruisk was fined for the publication of an article on the website of BelsatTV, a satellite television channel.[51] Tamara Shchepetkina is awaiting trial for similar charges.[52]

84. Despite the requests made for many years by both Radio Razyja and Belsat for official accreditation of their journalists in Belarus, they have constantly received refusals from the Ministry of Foreign Affairs. On 4 September 2014, the Supreme Court prohibited BelsatTV from using the trademark "Belsat" when broadcasting to the territory of Belarus and on the channel website.[53]

85. The Special Rapporteur notes that, on 16 September 2014, police inspected the apartment of journalist Ales Burakou and seized his computer equipment, reportedly in response to the publication of an article by him on the website of broadcaster Deutsche Welle without accreditation from the Ministry of Foreign Affairs.[54]

86. In June 2014, the Representative on Freedom of the Media of the Organization for Security and Cooperation in Europe (OSCE), commenting on the court decision against Andrei Myaleshka, expressed concern at the increasing number of fines imposed on Belarusian journalists for work without accreditation.[55]

J. Freedom of peaceful assembly

87. The Special Rapporteur notes that the authorities in Belarus have continued to adopt further restrictions on public gatherings, including by broadening the definition of "mass events"; establishing criminal liability for organizing such events in violation of the law; new restrictions on where demonstrations may be held; and banning the dissemination of information about public gatherings until the authorities have approved them.[56]

88. The broadening of the legal interpretation of mass events is a cause for grave concern. For example, "unsanctioned events" that trigger administrative liability include

[48] Coalition report (see footnote 4), p. 9.
[49] Human Rights Watch, UPR Submission (see footnote 34).
[50] Civic Belarus, "The price of freedom of speech", 11 December 2014.
[51] Belarusian Helsinki Committee et al., Analytical report (see footnote 47).
[52] Civic Belarus, "The price of freedom of speech" (see footnote 50).
[53] Belarusian Helsinki Committee et al., Analytical report (see footnote 47).
[54] Ibid.
[55] OSCE, "OSCE representative calls on Belarusian authorities to repeal accreditation requirements for journalists", 17 June 2014.
[56] Human Rights Watch, UPR Submission (see footnote 34).

distributing printed materials or carrying out photo shoots. A further restriction is the requirement to complete an application process for such events. Individuals have often been detained and fined for participating in unregistered events.[57] There have also been reports of cases of detention and prosecution for participating in previously approved events.[58]

89. The Special Rapporteur notes reports that the authorities in Belarus banned more than 10 peaceful assemblies scheduled for Human Rights Day 2014.[59]

90. On 27 July 2014, Aliaksandr Makaeu was detained by police officers for having raised a white-red-white flag for the release of political prisoners during the public prayer on Nezalezhnasci square in Minsk.[60] In November 2014, on the traditional commemoration day of *Dziady*, the deputy chairman of the Conservative Christian Party, Yuri Belenki, was charged with having violated the prescribed procedure for the organization of processions, despite the fact that the procession had been authorised by the Minsk city executive committee.[61] On 22 January 2015, some 15 people lit candles and laid flowers at the monument of the Ukrainian poet Taras Shevchenko in Minsk. Participants were detained and five people were sentenced to administrative arrests from five to 15 days.[62]

K. Freedom of association and human rights defenders

91. Since the establishment of the mandate on the situation of human rights in Belarus, the Special Rapporteur has noted that, in Belarus, the right to freedom of association is severely restricted in law and practice and that violations of that right have become systematic.

92. At its universal periodic review in 2010, Belarus accepted various recommendations relating to improving its observance of freedom of association and legal conditions for the activities of civil society. Despite this, there have been no improvements with regard to freedom of association in Belarus; indeed, since 2010, new legal acts and laws have been adopted that restrict freedom of association and virtually disable civil activism.[63]

93. The Special Rapporteur commends Belarus for the amendments adopted on 20 February 2014 to the law on public associations and on political parties, which reduced the number of founders from various regions required to establish a public organization, and also increased requirements for their dissolution. However, these improvements hardly compensate for the numerous administrative hurdles obstructing civil society organizations from functioning.

94. Three main restrictions effectively cripple the right to freedom of association: the permission-based rules on registration; the ensuing widespread refusal of registration; and the criminalization of unregistered civil activities and funding. All public activities and events require prior authorization by different government levels. The registration of a civil society organization is a legal prerequisite for any activities conducted by it. Registration is

[57] Ibid.

[58] Viasna, "Situation of Human Rights in Belarus" (see footnote 3).

[59] Ibid.

[60] Belarusian Helsinki Committee et al. Analytical report (see footnote 47).

[61] Belarusian Helsinki Committee et al. Analytical review (see footnote 2), p. 7.

[62] Charter 97, "Participants of rally in memory of 'Heavenly Hundred Heroes' in Minsk sentenced to arrests", 23 January 2015.

[63] Joint written submission by a coalition of national non-governmental organizations on "Freedom of associations and legal conditions for civil society organizations (CSOs) in Belarus" (available at www.lawtrend.org/wp-content/uploads/2014/09/UPR_Belarus_II_2015-03.09.2014.pdf), p. 2.

permission- rather than notification-based, putting all decisions at the discretion of the authorities. The process of applying for registration is also highly obstructive, involving the requirement to meet a number of complicated and cumbersome administrative requirements, lengthy procedures, lack of transparency, and the selective application of laws and regulations. A common feature of these time-consuming and costly procedures is that their unnecessarily strict requirements allow for a discriminatory refusal of registration by the authorities. Civil society groups are repeatedly and arbitrarily denied registration on various grounds, many of which not even mentioned in the relevant law or regulations.

95. As an illustrative example, in September and November 2014, the Department of Justice of the Mahiliou Regional Executive Committee repeatedly applied to the Regional Court for a suspension of the activities of the Mahiliou Human Rights Centre, which has been engaged in human rights activities for 17 years. The reasons given were "failure to provide documents required for the registration of changes regarding the legal address", and that their actual office space was 0.3 m^2 less than specified in the official documents. On 17 March 2015, the court resumed the consideration of the lawsuit filed by the Department of Justice to close down the organization, and dismissed the case only after a new landlord gave guarantees that he would provide a legal address.[64]

96. Participation in the activities of unregistered associations is criminalized by law, under which persons involved in unregistered groups may be sentenced to up to two years of imprisonment. In addition, unregistered non-governmental organizations are forbidden from receive funding. The described cumulatively forbidding set of regulations is often used for targeted harassment and persecution of human rights activists. In particular, laws on taxation in relation to funding are used to bring criminal charges, as was the case with Ales Bialiatski, who was sentenced to four and a half years in prison for administering foreign funding for Viasna.

97. Administrative harassment, warnings and threats are routinely used to intimidate human rights defenders with the aim to prevent them from carrying out their activities.

98. The Special Rapporteur is particularly concerned about the recent expulsion of the Chairperson of the Centre for Legal Transformation (LawTrend), Elena Tonkacheva, from Belarus on 21 February 2015, and the ban on her re-entry to the country for three years. A deportation order was issued against the human rights defender following the cancellation of her residence permit on 30 October 2014 – an administrative decision based on alleged speed limit violations reported while she was driving her car (see A/HRC/28/63/Add.1, para. 383).[65]

99. The Special Rapporteur is concerned that Viasna, one of the largest non-governmental organizations in the country, has consistently been denied registration since 2003.

100. The Special Rapporteur also notes the death threats received by Leanid Sudalenka, a human rights defender in Gomel.[66] The Special Rapporteur calls upon the authorities in Belarus to conduct a full investigation into these death threats and to afford Mr. Sudalenka protection as stipulated by the Declaration on Human Rights Defenders.

---

[64] Viasna, "Court in Mahilou dismisses suit to close human rights NGO", 17 March 2015.

[65] See also OHCHR, "Elena Tonkacheva's deportation shows 'pervasive harassment of rights defenders in Belarus'", 6 March 2015.

[66] Front Line Defenders, "Belarus – Refusal to investigate death threats against human rights defender Mr Leanid Sudalenka and his family", press release, 9 March 2015.

101. The Special Rapporteur reaffirms that Belarus must comply with its international obligations concerning freedom of association and create conditions to guarantee that human rights defenders may do their work in a safe and secure environment.

L. Elections

102. In the light of the forthcoming presidential elections due in 2015, it is particularly worrying that the rights to vote and to be elected at genuine periodic elections are not guaranteed in Belarus (A/68/276, para. 115).

103. Amendment to electoral laws to ban election boycotts were passed by the Council of the Republic on 15 November 2013.[67] The Special Rapporteur calls for the repeal of this amendment and for a reform focusing on ensuring transparency and public participation, and key preconditions for free and fair elections in the Electoral Code, in particular:

- A guarantee of independence of election commissions, including through their pluralistic composition
- Transparent vote counting, including a detailed procedure for full and open observation by election commission members and other stakeholders

104. The Special Rapporteur also highlights the fact that respect for the freedoms of assembly, association and expression and the rule of law are the cornerstone of free and full participation in democratic societies and the precondition for free and fair elections.

M. Trade unions

105. Belarus has for many years been advised to bring its legislative framework on trade unions and strikes into line with the obligation to ensure the freedom of activity of trade unions and the rights to strike, to organize and to collective bargaining.[68] In the annual Global Rights Index released on 19 May 2014 by the International Trade Unions Confederation (ITUC), which rates working conditions in countries according to 97 indicators, Belarus ranked among the 24 "worst countries in the world to work in", in category 5 ("No guarantee of rights").[69]

106. As in the case of associations, the registration and formation of trade unions is impeded. Without registration, trade union activities are banned and the trade union itself faces dissolution. At the 103rd session of the International Labour Organization (ILO), in June 2014, the Conference Committee on the Application of Standards, in an observation on the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), noted "with deep regret" that, despite numerous requests by the ILO supervisory bodies, there had been no tangible measures taken in this regard, and urged the Government to address the issue of registration of trade unions in practice. It also took note of further allegations of anti-union discrimination and interference in public sector enterprises (Granit and the Babruysk plant of tractor parts and units) and requested information on allegations of violations of ILO Conventions Nos. 87 and 98, including the denial of the right to hold pickets and demonstrations, the deregistration of a primary trade union affiliated to the Radio and

[67] Belta, "OSCE/ODIHR not happy with Belarus' plans to ban election boycotts", 15 November 2013.

[68] See E/C.12/1/Add.7/Rev.1, para. 22; E/C.12/BLR/CO/4-6, para. 17; and ILO, 369th Report of the Committee on Freedom of Association (GB.318/INS/5/2), para. 26.

[69] ITUC, "New ITUC Global Rights Index – The world's worst countries for workers", 19 May 2014.

Electronic Workers' Union, and pressure and threats from the authorities against leaders of the Free Metal Workers' Union, communicated by ITUC.

107. Article 30 of Law No. 141-3 on municipal electric transport and the metro system, adopted on 5 May 2014, forbids strikes in that transport sector. A similar provision was included in amendments to the law on railway transport adopted in December 2014. [70]

108. The Special Rapporteur notes that Aliaksandr Varankin, Mikalai Zhybul, Aliaksandr Hramyka and Aleh Shauchenka, members of the Belarusian Free Trade-Union who were fired from the Babruysk plant of tractor parts and units, came before the Babruysk city court on 18 December 2014 charged with participating in an "unsanctioned mass event" (referring to the hunger strike). The judge fined them for their participation in it.[71]

N. Just and favourable conditions of work

109. On 15 December 2014, Presidential decree No. 5 on strengthening the requirements for managers and employees of organizations was signed. The Special Rapporteur is concerned that the decree introduces new disciplinary action and further grounds for dismissal and suspension from work, and expands the grounds for early employer-initiated termination of contracts.[72]

110. As noted by the mandate holder in previous reports, short-term contracts are the rule rather than the exception in various sectors in Belarus. A large proportion of workers (up to 90 per cent – apart from public service and some industrial sectors) are in a precarious situation, threatened with non-renewal of contract, in violation of the International Covenant on Economic, Social and Cultural Rights. Such contracts subject workers to pressure, threats and discrimination (A/HRC/26/44, para. 107).

111. The Committee on Economic, Social and Cultural Rights requested Belarus to revise the system of short-term labour contracts, to abolish forced labour of persons with substance addiction, to ensure the free exercise of rights of trade unions and to guarantee social protection mechanisms (see E/C.12/ BLR/CO/4-6). Belarus should implement the recommendations made by the Committee and enshrine in its legal system the principle of non-discrimination in employment on all grounds, in accordance with international standards.

O. Forced labour

112. On 20 October 2014, the authorities in Belarus announced a plan to introduce measures against sponging (*tuneyadstvo*).[73] "Spongers" are labelled as those that either do not work at all or do not work officially according to government data. A draft decree "on stimulation of employment of citizens", presented to the Council of Ministers on 19 March 2014, provides for taxes on all employable citizens who are not employed and punitive measures against those who do not work.[74] The Special Rapporteur is concerned about the impact of such a scheme on vulnerable persons in society and its contravention of

[70] See http://law.by/main.aspx?guid=150203.

[71] Belarusian Helsinki Committee et al. Analytical review (see footnote 2).

[72] Belarus Digest, "Lukashenka's decree No. 5: a new blow to Belarusian workers", 30 December 2014.

[73] Vadzim Smok, "Belarus may introduce forced labour to fight sponging", Belarus Digest, 29 October 2014.

[74] Belta, "Draft ordinance on employment submitted to Belarus' Council of Ministers", 19 March 2015.

international labour standards, which may lead to a further deterioration in employment conditions and to forced labour.

113. The Special Rapporteur continued to receive reports of individuals who had been forced to work in circumstances unrelated to their occupations or situations, including conscripts, inmates in detention facilities and graduates. The general working population is submitted to a system of *subbotniks* imposed by authorities. In theory, participation in such work is voluntary, even though, in practice, non-participation results in negative repercussions, such as the non-renewal of employment contracts and the revocation of monthly bonuses (A/HRC/26/44, para. 112).

114. The Special Rapporteur recalls that ILO regards the prohibition of forced labour as the cornerstone of international labour law.

P. Discrimination

115. Although the general principles of equality and non-discrimination are guaranteed by article 22 of the Constitution, there is no specific anti-discrimination law or legal provisions encompassing direct and indirect discrimination. A definition of discrimination is found only in the Labour Code.[75] As has been indicated in previous reports, courts do not accept discrimination as a basis for lawsuits (see A/HRC/23/52, para. 96).

116. The Special Rapporteur calls upon the authorities to develop a comprehensive anti-discrimination law in accordance with international standards.

1. Gender

117. The Committee on the Elimination of Discrimination against Women called upon Belarus to consider adopting a law on gender equality or comprehensive anti-discrimination legislation, including a clear definition of all forms of discrimination against women, and to put in place a comprehensive policy to overcome stereotypical attitudes about the roles and responsibilities of women and men in the family and in society (see CEDAW/C/BLR/CO/7, paras. 12 and 18 (a)). Participation in political and public life and in decision-making processes, wage disparities, and access to the labour market on an equal footing are recurrent challenges.[76]

118. With regard to policies to ensure gender equality, including within the framework of the fourth National Plan of Action on Gender Equality (2011-2015), the Special Rapporteur notes the efforts currently under way, but also the recommendations made to the authorities on increasing financial resources for the implementation of the Plan of Action and for the strengthening of the National Council on Gender Policy (see CEDAW/C/BLR/CO/7, paras. 11-12).

119. During the 16 Days of Activism against Gender Violence in 2013, Belarus launched a nationwide public awareness campaign entitled "A house without violence" aimed at

[75] Coalition report (see footnote 4), p. 14.

[76] See E/CN.4/2006/36, para. 66; E/C.12/BLR/CO/4-6, paras. 11 (b) and 12; E/C.12/1/Add.7/Rev.1, para. 23; Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 38 (A/55/38), paras. 355, 359 and 365-366; ibid., Fifty-ninth Session (A/59/38), paras. 351–352 and 357–358; CEDAW/C/BLR/CO/7, para. 32; A/HRC/4/16, para. 43; and A/HRC/15/16, paras. 97.42-97.43.

preventing domestic violence.[77] In its national report prepared for the second cycle of the universal periodic review, Belarus reported that a definition of domestic violence had been introduced into the Law on Basic Actions for the Prevention of Crime adopted on 4 January 2015. The Special Rapporteur calls for the prompt adoption of the draft law on domestic violence, which will provide for the rights of victims to assistance, protection and remedies.

2. Persons with disabilities

120. Efforts have been made for persons with disabilities, in particular with regard to the accessibility of public infrastructure. Persons with disabilities continue to face physical and regulatory barriers, and challenges with regard to access to education and employment, including reasonable accommodation in the workplace, as well as stereotyping.

121. The Special Rapporteur takes note of the draft presidential decree on signing the Convention on the Rights of Persons with Disabilities as reported in the national report prepared for the second cycle of the universal periodic review, and encourages Belarus to ratify the Convention and the Optional Protocol thereto.

3. Roma

122. As raised by the Special Rapporteur in previous reports (see A/HRC/26/44, para. 125), discrimination faced by the Roma is widespread, including in the fields of employment and education. Human rights defenders report having received complaints from the Roma community with regard to cases of unreasonable and arbitrary detention by law enforcement bodies.[78]

4. LGBTI persons

123. Although same-sex relationships are not illegal in Belarus, homophobic discourse is widespread, including in the media. There is no law to protect sexual minorities from discrimination, and homophobic violence is not considered a hate-based crime, even though cases of harassment, discrimination and attacks against LGBTI persons are frequent (A/69/307, para. 84). In May 2014, a young man was attacked while leaving a gay club in Minsk. As a result of the assault, he spent a month in a coma and suffered irreversible injuries. The court convicted the assailant for involuntary homicide to two years and eight months and refused to consider any circumstances of hate crime based on sexual orientation, even though witnesses testified to the homophobic intent of the perpetrator.[79]

124. The Special Rapporteur remains concerned about the particular challenges facing LGBTI defenders, who suffer double discrimination and are frequent targets of violence and abuse, including by law enforcement authorities (A/69/307, para. 84).

5. Persons living with HIV/AIDS

125. The Special Rapporteur takes note of information on efforts to combat HIV/AIDS, including on the fact that antiretroviral therapy is provided through State funds[80] and that harm reduction programmes have been introduced, including opiate substitution therapy.[81] He also draws attention, however, to the need to prohibit discrimination and to repeal or

---

[77] See UN-Women, Government commitments (www.unwomen.org/en/what-we-do/ending-violence-against-women/take-action/commit/government-commitments).

[78] Viasna, "Human rights defenders receive more reports on ongoing harassment of Roma", 26 February 2015.

[79] Civic Belarus, "Belarusian Court refuses to admit homophobia", 15 January 2015.

[80] UNAIDS, "Ending the AIDS epidemic in Belarus: joint commitments and joint efforts", 10 February 2015.

[81] UNAIDS, "Opoid substitution therapy and HIV prevention in Belarus", 11 December 2014.

amend laws and policies that perpetuate the stigmatization of persons living with HIV/AIDS (E/C.12/BLR/CO/4-6, para. 24).

Q. Cultural rights

126. In his previous report, the Special Rapporteur raised concerns about the limited use of the Belarusian language in education and cultural life (A/HRC/26/44, para. 126). He is encouraged by the increase in the use of the Belarusian language in public life. He notes for example that, on 21 January 2015, the Minister for Education reported on plans to foster the use of the Belarusian language in education, including the teaching of geography and history in schools in Belarusian.[82] In its annual address in January 2015, the Constitutional Court spoke out in favour of publishing legislative acts in both Russian and Belarusian.[83]

VI. Conclusions and recommendations

127. **The findings of the Special Rapporteur during the period under review revealed that there had been no significant improvement in the overall situation of human rights in Belarus since his previous report to the Human Rights Council. Moreover, the conditions with regard to certain rights have further deteriorated as a result of the adoption of new restrictive provisions, adding up to a long-standing and ongoing regime of structural limitations to the enjoyment of the civil and political rights and the freedoms that are enshrined in the Constitution and in the international commitments of Belarus.**

128. **The Special Rapporteur observes with concern a situation where Belarus approaches another presidential election without having addressed the shortcomings in its human rights governance, which in the past had led to recurring violence around such constitutive civic events.**

129. **Besides the absence of cooperation with the mandate, the Special Rapporteur notes that many recommendations made by United Nations human rights mechanisms have neither been fully implemented nor followed up on. The shortcomings that lead to persistent and systemic violations of human rights should be addressed promptly through swift and effective institutional responses in order to contribute to the strengthening of the national human rights protection system. With this in mind, the Special Rapporteur urges the Government to take measures to implement comprehensively all the recommendations made by the United Nations human rights mechanisms – the treaty bodies, the special procedures, the universal periodic review, and those made by the United Nations High Commissioner for Human Rights. He again reiterates his readiness to cooperate fully with the Government in accordance with his mandate.**

130. **In the light of the above situation, the recommendations made by the Special Rapporteur in his previous report to the Human Rights Council and in his reports to the General Assembly remain valid. Building on those recommendations,[84] the Special Rapporteur wishes to add the recommendations below.**

131. **The Special Rapporteur recommends that the Government of Belarus:**

---

[82] Belta, "Zhuravkov: History and geography should be studied in Belarusian", 21 January 2015.

[83] http://kc.gov.by/main.aspx?guid=19095.

[84] See A/HRC/23/52, para. 119; A/HRC/26/44, para. 139; A/68/276, para. 118; and A/69/307, para. 93.

(a) Develop a national human rights plan of action to ensure follow up to and implementation of all recommendations made by the international human rights system, in broad consultation with all human rights-promoting civil society organizations, regardless of their registration status, and the general public. The plan should be comprehensive in scope, reflect the interdependence and indivisibility of all human rights, include specific timelines and benchmarks for implementation, and be based on the close cooperation of the Government with Parliament, civil society organizations, the United Nations system and the international community for its implementation. The Government should also establish a consultative mechanism, such as a national coordinating committee, open to civil society, to conduct the process;

(b) Establish a national human rights institution in accordance with the Paris Principles, with a clear human rights mandate and broad powers for promotion and protection;

(c) Continue to reform the judicial system, including by implementing fully Presidential Decree No. 6, and take further action to remove legal and institutional obstacles to ensure the independence of the judiciary, in accordance with the Basic Principles on the Independence of the Judiciary, as a prerequisite to the rule of law;

(d) Repeal the amendments to laws on elections and referendums of 15 November 2013 banning election boycotts, and take measures to ensure transparency and public participation in electoral processes and, in particular:

(i) Create independent election commissions through pluralistic composition;

(ii) Ensure a transparent vote count in elections, including for its full and open observation by election commission members and other stakeholders;

(e) Create space for effective and full participation in public life and decision making processes, peaceful dissent and dialogue, by fully respecting the right to freedoms of assembly, association and expression, as preconditions for free and fair elections. To that end review, amend and repeal if necessary all laws, in line with recommendations made by the international human rights mechanisms, with the aim to comply with the Constitution and international standards;

(f) Repeal the recent provisions of the law on mass media that extend restrictions on freedom of expression to Internet-based media, and also repeal regulations that grant the Government powers to sanction content in the press or to block Internet resources;

(g) Protect human rights defenders and journalists from harassment, intimidation and violence as a result of their activities, and conduct prompt, impartial and thorough investigation, prosecution and punishment of any such acts;

(h) Release all political opponents, human rights defenders and activists who have been subjected to criminal charges without conditions, and ensure their full rehabilitation, and cease using administrative and criminal charges in retaliation for the exercise of their political and other rights;

(i) Refrain from handing down death sentences and establish an immediate moratorium on the use of the death penalty with a view to its permanent abolition;

(j) Develop a comprehensive anti-discrimination law in accordance with international standards, addressing direct and indirect discrimination;

(k) Amend or repeal legislation not in conformity with international labour standards, including the right of workers to organize themselves, abolish forced and involuntary labour, ensure the free exercise of rights of trade unions, and guarantee social protection mechanisms;

(l) Broaden the scope of cooperation with the United Nations, including the Office of United Nations High Commissioner for Human Rights, to undertake activities reflecting all the recommendations stemming from the human rights system;

(m) Recognize and extend full cooperation to the mandate holder by engaging in a substantive and constructive dialogue, and facilitating a visit to the country.

United Nations A/HRC/29/44

General Assembly

Distr.: General
13 April 2015

Original: English

Human Rights Council
Twenty-ninth session
Agenda item 5
Human rights bodies and mechanisms

Report of the 2015 Social Forum (Geneva, 18–20 February 2015)*

Chairperson-Rapporteur: Faisal bin Abdulla al-Henzab (Qatar)

Summary

The present report contains a summary of discussions and recommendations of the 2015 Social Forum. In accordance with Human Rights Council resolution 26/28, the Forum was held in Geneva from 18 to 20 February 2015, and focused on access to medicines in the context of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, including best practices in that regard.

* The annexes to the present report are circulated as received.

GE.15-07704 (E)

1507704

Please recycle

Contents

		Paragraphs	Page
I.	Introduction	1–3	3
II.	Opening of the Social Forum	4–6	3
III.	Summary of proceedings	7–58	4
	A. Keynote speakers and general statements	7–10	4
	B. Overview of access to medicines in the context of the right to health	11–15	5
	C. Improving health delivery systems in challenging contexts	16–20	6
	D. Access to medicines for women and children	21–25	8
	E. Intellectual property rights and access to medicines	26–30	9
	F. Lessons learned and emerging challenges in the global response to AIDS	31–35	10
	G. Patient-centred approaches to access to medicines	36–41	11
	H. Breakout discussion groups and plenary discussion	42–43	13
	I. Innovative approaches to promoting access to medicines	44–49	13
	J. Good practices in promoting access to medicines (round table)	50–58	15
IV.	Conclusions and recommendations	59–74	18
	A. Conclusions	60–66	18
	B. Recommendations	67–74	19
Annexes			
I.	Provisional agenda		21
II.	List of participants		22

I. Introduction

1. The Human Rights Council, in its resolution 6/13, preserved the Social Forum as a unique space for interactive dialogue between the United Nations human rights machinery and a variety of relevant stakeholders, underlining the importance of coordinated efforts at the national, regional and international levels for the promotion of social cohesion based on the principles of social justice, equity and solidarity; to address the social dimension and challenges of globalization; and issues linked with the national and international environment required for the promotion of the enjoyment of all human rights by all.[1]

2. In accordance with Human Rights Council resolution 26/28, the Social Forum was held in Geneva from 18 to 20 February 2015 and considered access to medicines in the context of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, including best practices in that regard. The President of the Council appointed Faisal bin Abdulla al-Henzab, Ambassador and Permanent Representative of Qatar to the United Nations Office at Geneva, as the Chairperson-Rapporteur of the Forum.

3. The programme of work[2] was prepared under the guidance of the Chairperson, with inputs from relevant stakeholders. Pursuant to Human Rights Council resolution 26/28, paragraph 8, background reports made available by the Office of the United Nations High Commissioner for Human Rights (OHCHR) informed the discussions (A/HRC/23/42, A/HRC/17/43 and A/HRC/11/12). The present report contains a summary of the proceedings as well as conclusions and recommendations.

II. Opening of the Social Forum

4. In his opening remarks, the Chairperson-Rapporteur of the Social Forum called on participants to identify and promote concrete, progressive and action-oriented approaches to improve access to medicines. Noting the particular significance of that issue to the State and people of Qatar, he advocated greater international cooperation to guarantee access to medicines, which was critical for health, well-being and development for all and a matter of social justice. Therefore inequities, including high costs borne by patients in many low and middle-income countries, must be eliminated. To that end, the international community should support innovation and local production, use of flexibilities under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), policy coherence among human rights obligations and international trade and investment regimes, and active engagement of all stakeholders, including the private sector, to save the lives of millions who do not have access to medicines.

5. Jane Connors, Director of the Research and Right to Development Division, OHCHR, described access to medicines as a critical and timely issue, particularly in the light of the emerging post-2015 development agenda. OHCHR had consistently advocated that the agenda be underpinned by human rights law, which obliged States to respect, protect and fulfil the right to health. The International Covenant on Economic, Social and Cultural Rights required States to take steps, to the maximum of their available resources, towards realization of the right to health, prohibited retrogressive measures, and required immediate fulfilment of minimum core obligations. According to the Committee on

[1] For further details on the Social Forum, see www.ohchr.org/EN/issues/poverty/sforum/pages/sforumindex.aspx.

[2] Available from www.ohchr.org/Documents/Issues/SForum/SForum2015/PoW.pdf.

Economic, Social and Cultural Rights, access to medicines was a core obligation. Medicines must be affordable, acceptable, accessible, of good quality, and made available without discrimination. Yet, 2 billion men, women and children had no access to essential medicines. Ms. Connors called on the international community to take immediate steps to rectify that tragedy, including by building production capacity in developing countries, allowing access to generic drugs and enhancing research and development relating to treatment for neglected diseases.

6. Joachim Rücker, President of the Human Rights Council, affirmed his support for the Social Forum as a subsidiary body of the Council, bringing together multiple stakeholders including Member States, civil society and others. The Forum provided a unique space enabling constructive engagement to discuss practical solutions to real life problems including at the grass-roots level. He called for immediate action to strengthen health systems, establish universal health coverage and ensure access to safe and efficacious medicines. Recent tragedies, like the Ebola outbreak in West Africa, illustrated the need for immediate measures to strengthen health systems with rights-based solutions that affirmed peoples' dignity and ensured their well-being. In moving forward, including on access to medicines in the post-2015 development agenda, respect for human rights must be the ultimate foundation upon which rested the legitimacy of the actions of governments, international institutions and corporations.

III. Summary of proceedings[5]

A. Keynote speakers and general statements

7. Deqo Mohamed, Chief Executive Officer of the Dr. Hawa Abdi Foundation in Somalia, described its work. With limited resources, it had provided health care to over a million people in a war-torn, rural setting. She advocated a holistic approach to health-care delivery by improving access to clinics (roads and infrastructure), training medical personnel and building health facilities. The Foundation also developed the skills of grass-roots communities. The Hawa Abdi Village that had grown around the clinic represented a bastion of security and community. While international non-governmental organizations contributed to programmes, their roles were often temporary, leaving a vacuum following their departure. Support was required to establish a functioning public health system, including through training community health workers and improved use of technology. Mobile phones, for example, could facilitate communication between patients and health personnel, where physical access was difficult. A renewed focus on sustaining access to medicines was needed, including by empowering people through education designed to promote their independence.

8. Jorge Bermudez, Vice-President of Health Production and Innovation, Fundação Oswaldo Cruz, Ministry of Health, Brazil, discussed the impact of international trade agreements on access to medicines and the need to integrate right to health considerations in negotiations. The TRIPS Agreement should not impede the realization of the right to health. In its negotiations, Brazil advocated measures to uphold the right to health. It had explicitly embraced that right in its domestic laws and policies, including by guaranteeing universal access to health care and linking health and development. Brazil had used public-private partnerships to reduce medicine costs and develop local expertise. It had also employed price regulation, essential medicines lists and other domestic policies. Those

[5] Statements and presentations made available to the Secretariat are available from www.ohchr.org/EN/Issues/Poverty/SForum/Pages/StatementSForum2015.aspx.

efforts had resulted in substantially lower prices for antiretroviral therapies. Nevertheless, affordability remained a major problem. He called for national, regional and global action to address the human rights implications of the intellectual property regime, including expansion of TRIPS flexibilities, increased use of voluntary licensing mechanisms and international support to promote progress towards trade agreements that improved access.

9. Stephen Lewis, Co-Director of AIDS-Free World, discussed affordability and the responsibilities of pharmaceutical companies. He decried a system that allowed companies to charge tens of thousands of dollars for treatment with a production cost of only around 100 dollars, wherein companies intensively lobbied governments to protect the status quo. Emphatic that balance sheets must not be prioritized over human lives, Mr. Lewis recalled the recommendation of the Global Commission on HIV and the Law to convene a neutral high-level body to develop a new intellectual property regime for pharmaceutical products, and to place a moratorium on patent protection of medicines in future free-trade agreements. He proposed five steps to increase access to medicines: (a) use the proposed sustainable development goals, especially goal 3.8, to put pressure on governments; (b) litigate against pharmaceutical companies; (c) integrate right to health considerations in trade negotiations; (d) form alliances to raise awareness of cost and accessibility issues; (e) support OHCHR in its efforts to encourage governments to fund health care.

10. In the general statements segment, representatives of Brazil, Chile, China, Colombia, Cuba, India, Pakistan, South Africa, Sri Lanka, Thailand, the Bolivarian Republic of Venezuela, the Holy See, the Ariel Foundation International and Autistic Minority International intervened. States highlighted measures at the national level for ensuring access to medicines. They emphasized that health concerns must prevail over intellectual property rights and commercial interests and called for flexibility in the TRIPS Agreement. Other issues raised included: quality of medicines; production of generics; supporting local capacity; inequality between States and the resulting impact on access; mental health; overprescription; international cooperation; public-private partnerships; benefits of healthy populations to development; links between health costs and poverty; investment and innovation; mobilizing resources to combat disease in developing countries; medication for children; youth participation in relevant discussions; black markets; health-care laws and policies.

B. Overview of access to medicines in the context of the right to health

11. Martin Khor, Executive Director of the South Centre, described access to medicines as a cornerstone of the enjoyment of the rights to health and life. Key barriers included investment treaties and regional agreements limiting TRIPS flexibilities, reduced government revenues owing to economic situations, and conditions that prevented the establishment and continued functioning of generic companies. To address those challenges, he suggested: (a) promoting the use of TRIPS flexibilities; (b) renewing TRIPS exceptions for least developed countries for as long as they retained that status; (c) permitting TRIPS exceptions for middle-income countries; (d) amending investment treaties that threatened the right to health; (e) eliminating TRIPS-plus provisions and other clauses in free-trade agreements that might jeopardize access to medicines and the right to health; (f) protecting public health services even in times of economic crisis; (g) building capacity to produce generic medicines; (h) promoting universal access to newly developed medicines; (i) prioritizing development of medicines for drug-resistant diseases; (j) promoting publicly funded and shared research and development; (k) providing financial and technological assistance to developing countries.

12. Zafar Mirza, Coordinator, Public Health, Innovation and Intellectual Property, Department of Essential Medicines and Health Products, World Health Organization

(WHO), presented an overview of the WHO work on access to medicines which was one of its six leadership priorities. Access to medicines could be rendered sustainable in the context of universal health coverage and functioning health systems. It was an unequivocal part of the human right to health and a complex issue involving multiple stakeholders, determinants and perspectives. WHO strived to promote universal access to safe, effective and high quality medicines that were prescribed and used rationally, and monitored by appropriate regulatory mechanisms. Access to existing medicines (generic and patent) should be improved and research and development for new essential medicines should focus on improving health outcomes, not only returns on investment. The medical needs of the most vulnerable must be met. Litigation on the right to health promoted access to medicines.

13. Dainius Pūras, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of health, denounced widespread and crippling inequalities in access to health services and medicines that had left 2 billion people without access to the health products they needed. Ill health was both a cause and consequence of poverty and access to medicines was a particularly pertinent problem in the developing world. States must ensure that medicines were affordable and accessible on a non-discriminatory basis. That required improved procurement and distribution globally, especially in developing countries. Research and development in medicines for neglected diseases must be improved. Although States had the primary responsibility for ensuring access to medicines, including through domestic health policies, intellectual property laws and donor country policies could also have major impacts. He discussed problems of medicine overuse and misuse especially in relation to mental illness. Prescription of medicines, particularly psychotropic medicines, should be part of a holistic approach to treatment.

14. During the interactive dialogue, representatives of India, the Indian Council of South America, the International Association for Hospice and Palliative Care and Rencontre africaine pour la défense des droits de l'homme took the floor. The speakers highlighted issues such as lack of access to effective pain relief medicines, the slow response to the Ebola crisis, the failure of the intellectual property regime to protect traditional knowledge from exploitation by pharmaceutical companies, and differences between challenges relating to access to patented and generic drugs.

15. In response, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of health observed that there were many lessons to learn from the Ebola crisis. He called for improved response systems, mobilization of additional resources, and improved health systems and infrastructure to prevent crises. Dr. Mirza clarified the fact that the challenges in access to patented and generic drugs were the same, but that the high prices of patented drugs posed an additional challenge. He suggested a broader approach going beyond a focus on patented drugs and market failures, to also recognize failures in public policy. Speaking on behalf of Mr. Khor, Germán Velásquez, Special Adviser for Health and Development at the South Centre, suggested that WHO employ article 19 of its Constitution to make binding decisions and deliver justice in access to medicines.

C. Improving health delivery systems in challenging contexts

16. Abdul Majeed Siddiqi, Head of Mission, HealthNet TPO, Afghanistan, discussed mental health treatment in fragile States. In Afghanistan, the work of HealthNet TPO since 2000 had included efforts to integrate mental health services in the health systems of 15 provinces on the basis of fact-finding, education and training, and policy advocacy. However, approximately half the Afghan population suffered from mental health problems, compared with 20 per cent in other developing countries, and only 2 per cent sought

treatment. Additional challenges in Afghanistan included: stigmatization of mental health patients; unequal integration of mental health services in primary and secondary health care; lack of quality referral health care, funding and prioritization by the Government and donors; staff capacity, supply of medicines in health facilities, quality of medicines and compliance.

17. Msgr. Robert J. Vitillo, Head, Caritas Internationalis, Geneva, while acknowledging the role of States, pointed to the complementary role in health crises of various stakeholders including faith-based organizations. Following the Ebola outbreak, while governments and international organizations struggled to respond, organizations like Caritas had acted immediately at the local, national, regional and international levels. They strengthened and maintained support provided by local Catholic health services and mobilized international volunteers, working with local communities. Faith-based organizations were particularly well placed to ensure that human dignity was upheld in all circumstances, and to provide local communities with material, pastoral and spiritual support that complemented medical support from health-service providers.

18. Mahmoud Daher, Head, WHO Gaza sub-office for the occupied Palestinian territories, explained how since 1967 military occupation had impeded development in the region, weakening all aspects of development for 4.2 million Palestinians and adversely affecting health systems. In Gaza, multiple external and internal factors had caused chronic shortages in essential medicines averaging 30 per cent over the past five years, and, averaging 50 per cent in disposable medical supplies. Unreliable fuel supplies and inadequate equipment and financial resources also posed obstacles to health services delivery, especially in Gaza. He noted that the Palestinian health sector would continue to suffer until the structural causes of those deficiencies were addressed and barriers were removed to control over resources and planning, to economic and educational opportunities and to self-determination.

19. During the interactive dialogue, interventions were made by representatives of the Congo, Associazione Comunità Papa Giovanni XXIII, the China Medical Association, Health Innovation in Practice, New Generation Ishaka, the People's Health Movement, and by Dr. Bermudez and Raffaela Schiavon, General Director, Ipas Mexico. Suggestions included: (a) the international community must guarantee access to essential drugs and protect and support health-care professionals even in challenging contexts and people in vulnerable situations including women, must have access to medicines; (b) renew the focus on direct actions to improve health systems, including in rural areas, and to train medical personnel and support staff; (c) build trust between communities and health workers; (d) effectively coordinate international responses to health challenges; (e) base long-term, sustainable approaches to improve access to medicines, on data and not politics.

20. In his concluding remarks, Msgr. Vitillo observed that maternal health care was often neglected in challenging contexts, for example, Ebola treatment units had no facilities designed for childbirth. However, increased cooperation between governments, international medical teams and non-governmental organizations working with local communities could support better health outcomes. Mr. Daher noted that many health-care professionals in Gaza had not received their salaries for over a year, causing serious strains on the system. Dr. Siddiqi stated that donors adopted different approaches, but that there had been some recent success in streamlining and improving the effectiveness of international assistance to improve access to essential medicines in challenging contexts. Panellists agreed on the need for pharmaceutical companies, governments and the international community to improve responsiveness to crises and ensure the realization of human rights.

D. Access to medicines for women and children

21. Dr. Schiavon stated that ensuring access to, and consistent procurement of, reproductive and neonatal health commodities was essential to ensuring human rights including the rights to health and life. Although maternal mortality rates had dropped significantly since 1990, 289,000 women had still died from causes relating to maternity in 2013, and there were significant disparities in mortality rates between regions. Worldwide 41 per cent of pregnancies were unwanted, and most of them were due to non-use or underuse of contraceptives. Lower contraceptive use correlated with higher rates of abortion. Reducing unintended pregnancies could avert 60 per cent of maternal deaths and 57 per cent of child deaths. Although access to contraceptives had increased, inequities remained both within and between States. Diverse challenges and barriers prevented equal access to potentially life-saving drugs for women, including ideological opposition to certain medications, such as emergency contraception and misoprostol (oral oxytocic) recommended for a variety of obstetric uses. She advocated evidence-based guidelines and policies to promote access to medicines for sexual and reproductive health.

22. Tarek Meguid, Associate Professor, State University of Zanzibar, asserted that lack of access to medicines constituted a grave human rights violation, particularly in maternal and child health. Quoting Mahmoud Fathalla, he said that women were not dying from a lack of technical capacity. They were dying because they were poor, powerless and pregnant, and the international community had yet to make the decision that their lives were worth saving. He described inadequate facilities which had an air of veterinary medicine about them, and stressed that the lives and dignity of poor women and children must be protected. Women must be given the space to empower themselves so that they can take control of their own lives. Dr. Meguid called for the creation of physical, economic and social spaces for women to give them agency and enable them to be the drivers of change. That required immediate action.

23. Lingli Zhang, Professor and Director of Pharmacy, West China Second University Hospital, Sichuan University, described efforts to improve children's access to medicines in the BRICS countries (Brazil, China, India, the Russian Federation and South Africa), noting their efforts to reach reduction targets in child mortality. While many affordable and accessible medicines had been developed, effective intervention was often inadequate owing to the lack of paediatric formulations and other factors. Despite positive steps, only 4.1 per cent of medicines in China were reserved for children, according to a survey of medicines used in paediatrics in 15 hospitals. Dr. Zhang suggested that an appeal be launched to raise global awareness of the need for all States to have an essential medicine list for children. She called for States to learn from each other's good practices, including advances by BRICS countries, like the essential medicine list for children in China, India and South Africa.

24. In the ensuing discussion, the speakers were Dr. Mohamed and representatives of OHCHR, Associazione Comunità Papa Giovanni XXIII, Autistic Minority International, the Center for Reproductive Rights and the People's Health Movement. They discussed governmental duties to ensure access to information on contraceptive services on a non-discriminatory basis; access to medicines for pregnant women living with food insecurity, and for autistic women and children; and the potential of education in reducing infant mortality. War and migration disproportionately affected women, mothers and children. In such cases, special health policies should be implemented and drugs made available in durable forms that did not require refrigeration.

25. Dr. Meguid stated that poor conditions were the standard for people who lived with inadequate medical facilities. Since they had no agency in relation to their health needs that would enable accountability, they did not complain. Health facilities were understaffed and

their personnel worked in unacceptable conditions. Health workers became both victims and perpetrators of human rights abuses. Consequently, they would continue to deliver inferior health services until they and their patients were empowered. Dr. Schiavon concluded that inequity in access to contraceptives and some other medicines was global, and often an ideological issue. Dr. Zhang called for change in mindsets on access to medicines and stressed the importance of an effective health policy.

E. Intellectual property rights and access to medicines

26. Lisa Forman, Assistant Professor, Dalla Lana School of Public Health, University of Toronto, described access to medicines as one of the most explicit examples of how economics and trade rules conflicted with human rights, including the rights to life, health and development. She focused on how intellectual property rights had an impact on drugs, illustrated by the increase in drug prices in Malaysia of 28 per cent per year between 1996 and 2005 following the implementation of TRIPS. Over 2 billion people still lacked access to essential medicines, with drug pricing remaining a key obstacle to access. She called on the United Nations to support the use of compulsory licensing as a proven means of reducing prices and realizing State duties under the right to health. States should be held to account in the universal periodic review process for imposing TRIPS-plus provisions in free trade agreements as a violation of the right to health. Ms. Forman suggested that TRIPS flexibilities were an insufficient solution to pricing concerns, referring to the Global Commission on HIV and the Law's recommendation that the Secretary-General create a new body to recommend a new intellectual property rights regime for drugs.

27. Thamara Romero, Legal Officer, Intellectual Property Unit, United Nations Conference on Trade and Development (UNCTAD) discussed UNCTAD work on access to medicines. The UNCTAD mandate in that area was based on the 2012 Doha Mandate (TD/500/Add.1, para. 65 (j)), and its assurance of the supply of essential medicines. UNCTAD had observed an increased need to diversify and expand pharmaceutical production. In the future India might no longer be considered the "pharmacy of the world". Expanding local production could result in improved access. She referred to a high court case in Peru in which an individual's right to health had been upheld, regardless of whether the Government had assigned adequate financial resources to the health sector. She called for increased use of TRIPS flexibilities. She argued that, if properly implemented, human rights and intellectual property were not necessarily contradictory. However, it was necessary to create awareness among policymakers and judges on the application of TRIPs flexibilities to enhance access to medicines.

28. Antony Taubman, Director, Intellectual Property Division, World Trade Organization (WTO), highlighted the intersection of health, trade and intellectual property rights. The Doha Declaration on the TRIPS Agreement and Public Health was a major milestone in understanding those intersections, recognizing the importance of intellectual property in the development of new medicines while acknowledging possible effects on pricing — a basis for international policy discussions seeking to implement practically an appropriate balance between promoting access and innovation. He recommended greater international cooperation to fulfil the right to health, required for sustainable development. He outlined three broad areas for future work: (a) elucidation of rules, data and industry developments; (b) coordination of operations and system-wide coherence; (c) implementation and action. Drawing on the study by WTO, the World Intellectual Property Organization and WHO, *Promoting Access to Medical Technologies and Innovation*, he noted widespread recognition of the need to strengthen national health systems and to develop innovative procurement solutions within existing legal and policy frameworks.

29. During the interactive dialogue, comments were made by representatives of Colombia, India, Mexico, the Colombian Commission of Jurists, Knowledge Ecology International, the People's Health Movement-Safe Observer International, Third World Network, Universities Allied for Essential Medicines, as well as by Dr. Bermudez, Dr. Schiavon and Regina Kamoga, Executive Director, Community Health and Information Network, Uganda. They discussed the following: South-South cooperation; patent monopolies; TRIPs-plus provisions in free trade agreements; the fundamental unfairness of intellectual property regimes, particularly for middle income countries; definition of "essential medicines"; alternatives to TRIPS; the role of WTO; contribution of universities to innovation and development of medicines; barriers to research and development; antibiotic resistance and the challenge from intellectual property regimes that hampered the supply of effective antibiotics; the positive role of TRIPs in spurring innovation; the need for more compulsory licensing in developing countries.

30. In her closing remarks, Ms. Forman referred to the responsibilities of States in ensuring access to all medicines, not only essential medicines, and asserted that the current system of TRIPs exceptions and flexibilities was inequitable. The Optional Protocol to the Convention on Economic, Social and Cultural Rights, which had entered into force on 5 May 2013, established a legally binding petitions procedure, an important mechanism for interpretation and enforcement of the right to health. Mr. Taubman reiterated the importance of policy coherence across legal and policy regimes. He called for intellectual property experts to develop a stronger understanding of public health issues, and for health practitioners and policymakers to gain a practical understanding of TRIPS flexibilities. Ms. Romero noted that different countries had different needs, but that analyses of national legal strategies were helpful in implementing the TRIPS agreement and its flexibilities. Improved local production capacity facilitated access to medicines.

F. Lessons learned and emerging challenges in the global response to AIDS

31. Martin Choo, Asia Pacific Network of People Living with HIV/AIDS (APN+), stressed the importance of equitable access and effective treatment. He asserted that access to treatment was a human right, treatment made patients feel human, and effective treatment was a public good. However, patients were being left behind, and many of those so left behind were from vulnerable social groups including the poor, sex workers, drug users and lesbian, gay, transgender, transsexual and intersex persons. He argued that patients should not be mere statistics. In the Asia Pacific region, almost 40 per cent of people infected with HIV/AIDS were not receiving treatment. Depression and mental illness were highly prevalent amongst people with HIV but they often went untreated as well. In national legislatures APN+ had strongly advocated that people living with HIV had the right to have access to treatment. APN+ also worked to extend treatment and community support to the most vulnerable.

32. Alma de Leon, Regional Director, International Treatment Preparedness Coalition, Latin America and the Caribbean, explained that many medicines available in the developed world were not available in Latin America. Children often had little access to treatment, which might, however, be reduced or eliminated when they became adults for lack of the third line of drugs, which were inaccessible in some countries because of their high price. The new development goals must accelerate universal coverage and eliminate gaps in access to medicines. Universal health care would only become a reality if the people's demands were met and if human rights prevailed over intellectual property rights. She called on the international community to break down barriers to access and pursue international trade and investment laws that permitted access to affordable medicines. The

commendable efforts of community movements in exerting pressure to reduce prices must be redoubled to enhance progress towards access to affordable medicines for all.

33. Tenu Avafia, Policy Adviser, HIV, Health and Development Practice, Bureau for Development Policy, United Nations Development Programme, cited the report of the Global Commission on HIV and the Law which called for changes in legal systems. That could prevent up to 900,000 new HIV infections by 2030. The Joint United Nations Programme on HIV/AIDS had set several targets in that regard including: halving the number of countries with punitive laws and practices around HIV transmission; creating an environment which safeguarded dignity, health and justice; and developing action-oriented, evidence-based recommendations for effective AIDS responses that promoted and protected the human rights of people living with and most vulnerable to HIV. The report emphasized that application of the current patent regime to medicines was a recent development. Furthermore, States had historically had the right to license patented inventions compulsorily when needed. The TRIPS Agreement posed a barrier to access to medicines. It benefited patent-holders at the expense of people living with HIV. The report recommended that the Secretary-General examine proposals for a new multilateral regime to promote innovation and increase access, that developed countries stop pushing TRIPS-plus agreements, that developing countries use TRIPS flexibilities, and that least developed countries be indefinitely exempted from TRIPS.

34. During the dialogue, there were interventions from representatives of the Bolivarian Republic of Venezuela, the China Medical Association, Health Innovation in Practice and Zomi Community USA, as well as from Amit Sengupta, Associate Coordinator, People's Health Movement, India, and Dr. Bermudez. They called for urgent action to change an intellectual property regime that continued to be a barrier to access to medicines. The achievements of the AIDS movement had not been adequately translated into improved access to all medicines for all. Continued activism would support access to medicines for HIV/AIDS treatment and States must act to improve their local production of drugs, eradicate stigmatization of persons living with HIV/AIDS and ensure that domestic laws and policies promoted, protected and fulfilled people's right to health.

35. In conclusion, panellists emphasized the need to eliminate stigma and discrimination against persons living with HIV/AIDS. Mr. Choo called for increased support from international organizations, improved mental health care and strategic, interlinked, community-based partnerships to support and care for persons living with HIV/AIDS. Ms. de Leon advocated increased attention to key populations and an end to senseless deaths caused by stigmatization of persons living with HIV/AIDS. Mr. Avafia stressed the importance of strong legal systems in protecting patient confidentiality and reducing stigma. He observed that current drug prices were not sustainable even in developed countries and that they affected persons suffering from all diseases. He argued for policy coherence to reconcile human rights obligations and international trade and investment laws.

G. Patient-centred approaches to access to medicines

36. Ms. Kamoga called for a people-centred approach to access to medicines that took into account cultural and demographic differences to extend appropriate and effective health care to rural and urban populations alike. Rural populations faced particular difficulties in reaching medical centres and were more likely to experience lack of access to medicines owing to shortages. She explained that Uganda had both formal and informal medical systems. People who lacked access to formal systems must rely on private health care and pay three to five times more for medicines than those with formal coverage. Innovative approaches were essential to ensure access to medicines and save lives. Civil

society organizations had led the way by extending medical services to rural areas, promoting community drug distribution programmes that pooled transportation costs and providing social support and education for patients. Unfortunately, many national governments in developing countries lacked the political will to take action to protect their citizens. They must act immediately to ensure access to affordable, high quality and safe medicines and promote further investment in research and development.

37. Dimitry Borisov, Executive Director, Equal Right to Life, Russian Federation, asserted that all persons had an equal right to life. Therefore, access to medical care for all categories of patients must be ensured. Unfortunately, in the Russian Federation, there were plans to reduce spending on health care from 3.6 per cent to 2.8 per cent of gross domestic product, placing a direct threat to access to medicines. Beyond resources, there were structural barriers to access including inadequate transparency in decision-making processes, insufficient collection of data, and a gap between legislative policies and their financing and execution. Those problems were clearly evident in cancer treatment. The inadequate treatment of cancer patients substantially affected mortality rates and those problems were reflective of the health system of the Russian Federation as a whole. Equal Right to Life promoted a patient-centred approach and advocated fulfilment of State health-care commitments and intersectoral collaboration.

38. Noel Hayman, Clinical Director, Inala Indigenous Health Service, Australia, described his efforts to extend health care to aboriginal communities, in which life expectancy was 17 years less than for other Australians. He emphasized the importance of quality research and good data to ascertain the origins of health outcome disparities. Research revealed that few indigenous peoples had access to and used primary health-care systems. Results of a focus group demonstrated that many aboriginal Australians were not accessing available health services because of cultural differences making them feel unwelcome. By actions to bridge those cultural differences, including employment of aboriginals in health systems, cultural awareness strategies and educational outreach, the health service had greatly expanded its reach. The key was to understand and acknowledge the culture and community. To further close the health coverage gap for indigenous peoples, the private sector, national and local governments, medical practitioners and communities must continue to collaborate to address their specific medical needs effectively. By so doing, the health service had improved access to affordable medicines.

39. Dr. Sengupta stated that people working together had the power to change health systems by demanding fulfilment of their rights. In India, there was a history of common people uniting to bring about transformative change. Access to medicines had always been an issue for popular mobilization by the masses. Civil society organizations in India campaigned against large pharmaceutical companies and put pressure on the Government to introduce measures that would allow generic pharmaceutical and local production to thrive. Consequently, drug prices in India were 10 per cent or less than global prices, and Indian generics helped reduce the cost of antiretrovirals by more than 40 times. However, the implementation of TRIPS in India posed a threat both for India and importing States. He called for global solidarity and collective action to address that threat, preserve the generic industry of India, resist pressure to adopt TRIPS-plus agreements and improve access to medicines for all.

40. During the interactive dialogue, there were interventions from Dr. Mohamed and Dr. Schiavon, representatives of Panama, the United States of America, WHO, the International Association for Hospice and Palliative Care, Maloca Internationale, Third World Network and the Union for International Cancer Control. Issues included the following: access to opioids and palliative care; patenting and criminalization of traditional medicines; cancer treatment; use and standardization of essential medicine lists; acquisition, receipt, distribution and storage of medicines; impact of changing political regimes on

health systems: procurement of medicines and treatment of patients in resource-constrained settings; balancing between ensuring drug quality and safety and preventing overregulation and regulatory capture.

41. In his concluding remarks, Dr. Sengupta stated that, although safety was a valid and important concern, the current debate around it had political elements that could not be ignored. Decisions and policies affecting health care must not lose sight of the ultimate objective of fulfilling the people's right to health. Dr. Hayman agreed that safety, particularly for use of opiates, was an important concern. He emphasized the responsibilities of all governments in guaranteeing access to medicines. Mr. Borisov described how the transition from the Soviet public health system to the current public/private health system had had a negative impact on access to health care in the Russian Federation. Currently, thousands lacked adequate cancer care because of coverage gaps and insufficient financing for legislative mandates, exacerbated by lack of transparency in decision-making. Ms. Kamoga stated that substandard drugs posed a real challenge, particularly in Uganda which lacked appropriate regulatory and enforcement mechanisms. She advocated a rights-based approach to access to medicines that empowered communities and individuals and employed effective, evidence-based policies.

H. Breakout discussion groups and plenary discussion

42. All participants were invited to join one of three breakout discussion groups. Each focused on a key issue relating to access to medicines in the context of the right to health. Group one, facilitated by Dr. Velásquez, addressed intellectual property regimes and access to medicines. Group two, facilitated by Nhan T. Tran, Manager, Implementation Research Platform, Alliance for Health Policy and Systems Research, WHO, focused on health systems strengthening, capacity-building, community engagement and empowerment. Group three, facilitated by Dr. Sengupta, discussed financing access to medicines and universal health coverage. In those groups, participants focused on identifying concrete solutions and good practices for overcoming barriers to access to medicines.

43. During the plenary discussion which followed, the main findings of the groups were presented by a rapporteur nominated by each group. All participants were given an opportunity to respond and present proposals for the conclusions and recommendations of the Social Forum. Those who took the floor were representatives of Ecuador, Panama, Ariel Foundation International, Knowledge Ecology International, Third World Network and Universities Allied for Essential Medicines, as well as Ms. Forman, Dr. Meguid, Dr. Sengupta and Damiano de Felice, Strategic Adviser to the Chief Executive Officer, Access to Medicine Foundation. A synthesis of the proposals emerging from the breakout and plenary discussions is reflected in the conclusions and recommendations of the present report.

I. Innovative approaches to promoting access to medicines

44. Geoff Adlide, Director of Advocacy and Public Policy at Gavi, the Vaccine Alliance, explained the innovative efforts of Gavi to shape vaccine markets with a view to promoting access. Gavi was a public-private partnership focused on saving children's lives and promoting human health through improved access to immunization in poor countries. It sought to address inequities in access to vaccines through innovative approaches to access, governance, monitoring and vaccine markets. It supported vaccine purchases by low-income countries through pooling domestic and regional purchasing power and donor contributions to minimize costs. Gavi also promoted competition and sought to balance supply and demand to ensure continuous supplies of the vaccines required. It tried to

improve vaccination delivery including with regard to thermostability, presentation and packaging, combinations, safety and efficiency. Timely, transparent and accurate market information for manufacturers and States was essential to its work to promote sustainable access to vaccines for all.

45. Nana Boohene, Procurement and Supply Specialist, Global Fund to Fight AIDS, Tuberculosis and Malaria, and Hye-Young Lim, Human Rights Adviser at the Global Fund, presented the Fund's work to promote access to medicines. A rapidly evolving global health landscape required innovative approaches to increasing access to essential health commodities. The Global Fund operated in 140 countries and adaptability was integral to maximizing its impact. When States reached middle-income status, they lost access to certain benefits in international assistance and delayed implementation of TRIPs which had an impact on their ability to procure medicines. The Fund sought to improve access by underserved populations worldwide by reducing market fragmentation to capitalize on collective negotiating power including through the use of electronic marketplaces and exchanges. Its strategies directly integrated human rights considerations, focused on procurement for impact, leveraged new technologies for innovation and supply chain management, and promoted market access and continuity of supply. The Fund sought to increase investment in programmes that addressed human rights barriers to accessing health services and withdraw support from programmes that infringed upon human rights.

46. Rohit Malpani, Access to Medicines Campaign Director of Policy and Analysis, Médecins Sans Frontières, described the Access Campaign, which responded to doctors' frustration regarding the availability, affordability and suitability of medicines. It sought to address basic market failures of the patent system, under which research and development costs were to be recouped through monopolies leading to high-priced products. There was no incentive for research and development for the poor nor for expanding their access. The Campaign called for delinking product prices from research and development costs. Its 3P project, "push, pull, pool", aimed to combine push funding, pull funding and the pooling of intellectual property rights to promote innovative research and development for new, effective tuberculosis drug regimens and affordable access to quality medicines for all. In multidrug-resistant tuberculosis, the 3P project incentivized collaborative, early-stage research through patent pooling and pull and push funding. By securing public funding for prizes and clinical trials, ensuring an open and collaborative model, it promoted the collaborative development of drug regimens through patent pooling. The Campaign was seeking to promote a model of research and development that delinked its cost from the final product price and ensured that research and development for tuberculosis was carried out in a manner that delivered effective, short-course, affordable tuberculosis regimens for all.

47. Lena Kähler, Researcher, Human Rights and Development, Danish Institute for Human Rights, a national human rights institution mandated to promote and protect human rights in Denmark and abroad, introduced the Institute's efforts to develop indicators for accessibility, availability, acceptability and quality in the context of the right to health. The lack of consensus on the interpretation of economic, social and cultural rights constituted an obstacle to its work. By developing a generally applicable toolbox on right to health indicators, it hoped to promote realization of the right to health locally and globally. The Institute had identified as core obligations the availability of essential medicines, prevention, treatment and control of epidemic and endemic diseases, immunization against major infectious diseases, and reproductive, maternal and child health care.

48. During the discussion, there were interventions from representatives of Brazil, Chile, the China Medical Association, the Colombian Commission of Jurists, Third World Network, Universities Allied for Essential Medicines, as well as from Dr. Sengupta, Dr. Mohamed and Dr. Meguid. Some speakers described efforts to impede production of

low-cost generic pharmaceuticals as crimes against humanity. Others called on the Human Rights Council and special procedures mandate holders to focus on access to medicines. They supported a holistic, people-centred and community-driven approach to health. That would include innovative efforts to address neglected diseases, like multiple drug-resistant tuberculosis, that disproportionately impacted on the poorest and most vulnerable, and to promote improved governance mechanisms, particularly for regulatory oversight and accountability of multinational corporations. The question was raised as to whether or not efforts to promote access had gone far enough to seek alternatives to market-based approaches.

49. In their concluding remarks, the panellists supported further integration of human rights considerations in access to medicines. Ms. Lim stressed the need to integrate human rights principles throughout procurement processes. She noted that the concept of middle-income countries was an artificial one and that access to medicines should not be dictated by the economic status of a country but by the needs of people, and that the Global Fund to Fight AIDS, Tuberculosis and Malaria was supporting the strengthening of health systems in a number of countries. Citing the work of the Committee on Economic, Social and Cultural Rights, Ms. Kähler asserted that the right to health required access to all medicines not only essential medicines. Mr. Adlide clarified that Gavi only supplied vaccinations through governments; responded to requests from governments; worked to reduce prices and emphasized transparency in its operations. Mr. Malpani decried continued mispricing of vaccines, called for rendering access to medicines sustainable and reiterated that middle-income countries faced substantial challenges in improving access.

J. Good practices in promoting access to medicines (round table)

50. Mr. de Felice described the Access to Medicine Index, a ranking of the world's 20 largest research-based pharmaceutical companies on the basis of what they did to facilitate access to medicine in developing countries. He noted that there was hope, that there were good practices, and that the Index, by drawing attention to corporate behaviour, could influence businesses to exercise greater responsibility. The Index compared corporations on the basis of their performance over time with regard to multiple factors, including but not confined to governance, pricing, patents, local stakeholder engagement, capacity-building and donations. Although progress was uneven, the Index indicated that the pharmaceutical industry had stepped up its efforts to improve access to medicine in developing countries. A competitive environment that not only held pharmaceutical companies accountable when required, but also recognized their efforts and accomplishments, would help advance access to medicines.

51. Sathyanarayanan Doraiswamy, Senior Reproductive Health/HIV Coordinator, Office of the United Nations High Commissioner for Refugees (UNHCR), described UNHCR work to ensure access for refugees and other persons of concern. When people were forcibly displaced across national borders, they became refugees, often with limited access to health care in countries of asylum. UNHCR efforts to promote health care for refugees were guided by its global strategy for public health and its guidelines on essential medicines and medical supplies. Those addressed the needs of persons in differing phases and contexts including acute emergencies, protracted displacement and in their pursuit for durable solutions. The two main models for providing health care were direct integration in national systems of host States and integration to the maximum extent possible combined with support from UNHCR and non-governmental organizations. UNHCR pursued various methods to promote access, including: provision of emergency health kits, collaboration with national AIDS programmes to support antiretroviral treatment, research programmes

and partnerships with the private sector. While those provided short-term solutions, the only long-term sustainable solution was total integration into national health systems.

52. Soraya Ramoul, Director, Access to Health, Novo Nordisk, described the company's efforts to promote access to medicines for the treatment of diabetes. Many people with diabetes resided in low and middle-income countries. Novo Nordisk provided half of the insulin worldwide. It employed differential pricing policies so that patients in developing countries paid one quarter of the price paid in developed countries. However, access was not simply a matter of affordability. It also required strong health delivery systems including sufficient and adequately trained medical personnel. Local prices might differ from initial purchasing prices because of supply chain problems, price mark-ups, import duties and taxes. Further efforts were needed to ensure that prices offered to patients were affordable and also sustainable from a business perspective. Better implementation of the right to health in the private sector context required translation of technical human rights language into business language.

53. James Love, Director, Knowledge Ecology International, recommended drastic changes to existing models of research and development and intellectual property rights. The prevailing system had failed to promote access and was fundamentally unfair. It created patent monopolies, vesting power and profits in private hands. Corporate lobbying to protect those interests contributed to regulatory arbitrage and perpetuation of the status quo. That system valued profits over human well-being and failed to achieve its stated objective of promoting innovation, particularly in research and development for treatment of diseases that disproportionately impacted the poor and the vulnerable. He argued for changes to the intellectual property regime, improved incentives for underfunded areas of research and development, mobilization of innovative sources of finance, increased scrutiny by the Human Rights Council, particularly in applying the right to development in relation to intellectual property rights, and innovative approaches to research and development. Mr. Love advocated deep, radical and transformative reforms that would delink research and development costs from product prices along with the elimination of product monopolies, in favour of other financing mechanisms, including combination of research grants, contracts and other subsidies and delinked financial incentives, including robust funding of large innovation inducement prizes for HIV/AIDS and cancer as well.

54. Esteban Burrone, Head of Policy, Medicines Patent Pool, described the evolution and work of that initiative. WHO first proposed the idea of a patent pool in 2008 as part of its global strategy on public health and innovation. After a feasibility study by the International Drug Purchase Facility (UNITAID) ("Innovative financing to shape markets for HIV/AIDS, malaria and tuberculosis"), which was welcomed by the Human Rights Council at its fifteenth session, the Medicines Patent Pool was set up to promote access to medicines for HIV treatment through resource pooling and voluntary licensing. Since 2010, that entity had negotiated licences for 11 antiretrovirals with five patent-holders. It worked with 10 generic manufacturers through 53 sublicensing agreements to improve access to antiretrovirals in low and middle-income countries where up to 94 per cent of people living with HIV resided. Patent pool licences had been recognized for their public health orientation, transparency and flexibility. Within four and a half years, the Pool had contributed to opening up the market for first and second line antiretrovirals. It was exploring expansion to cover tuberculosis and hepatitis C.

55. Smiljka de Lussigny, HIV Programme Manager, UNITAID, discussed that initiative's focus on innovative access to medicines. UNITAID used innovative financing, a major portion of which came from a levy on air tickets, for greater access to treatments and diagnostics for HIV, malaria and tuberculosis in low-income countries. It focused on maximizing available resources for the promotion of access by mobilizing resources and promoting their effective use. Affordability posed a substantial barrier to access,

particularly when States lacked appropriate national policies, access to affordable and quality generic medicines and/or financial resources. New, effective treatment for hepatitis C was largely inaccessible to many patients owing to prohibitive costs. UNITAID intervened by providing funding to organizations working to demonstrate the impact, cost-effectiveness and utility of new treatment and diagnostic tools and to develop the evidence needed to inform health policy and normative guidance. It also helped to improve the affordability of new commodities, often by leveraging its purchasing power to negotiate with manufacturers for the supply of quality-assured health products at lower prices or by enabling generic, low-cost production of medicines.

56. Hans Rietveld, Director, Market Access and Capacity-Building, Malaria Initiative, Novartis Pharma AG, introduced the Novartis Malaria Initiative. The latter had been involved in providing low-cost, life-saving treatment for malaria patients, a disease which had been taking the life of one child every 60 seconds for the past 15 years. It pursued multiple strategies to combat malaria including research and development of new treatment options, capacity-building, improving access and provision of treatment. Since 2001, the Initiative had delivered more than 700 million treatments without profit to 65 malaria endemic countries. It had developed paediatric tablets that were dissolvable in liquid for babies and children and an improved formulation for adults. The Power of One campaign treated one child for every dollar raised. Its partnership with the fund-raising organization Malaria No More had rallied public support and funds for 3 million malaria treatments in Zambia. The Initiative sought simple and innovative solutions to complex problems. For example, it had utilized mobile phones to monitor drug supplies in Africa and head off stock-outs, and published and distributed education materials on malaria prevention and treatment. However, much remained to be done including on development of new treatment for drug-resistant malaria and on strengthening health systems.

57. During the interactive dialogue, the following took the floor: representatives of Brazil, Indonesia, the International Association for Hospice and Palliative Care, New Generation Ishaka, Safe Observer International, Rencontre Africaine pour la défense des droits de l'homme, Third World Network, Universities Allied for Essential Medicines; Drs. Sengupta, Bermudez, Schiavon and Zhang; Ms. Forman. Many speakers called for a rights-based health paradigm to replace market-oriented solutions, and related actions from the Human Rights Council. They recommended increasing attention to the medical needs of children, corporate responsibility, equitable access to medicines, and reduction of regulatory barriers to access, including TRIPs and TRIPs-plus provisions, research and development of treatments for neglected tropical diseases, access to pain medication, and the use of tariffs to safeguard local manufacturing capacity. Several speakers called on States to promote access without discrimination, to put people first, and to refrain from exerting political pressure to increase patent protections at the expense of access to medicines. They called on the Secretariat to issue strong recommendations on intellectual property rights, regulatory measures, and equal access to health care and sexual and reproductive health. Reiterating that access to medicines was a matter of life and death, they demanded that States and the private sector take immediate action to remove barriers to access to medicines.

58. In response, Mr. Rietveld clarified that he spoke for the Novartis Malaria Initiative, and not Novartis as a whole. The Initiative worked because the non-profit business model and the scale of the problem had allowed Novartis and partners to combine their approaches into a sustainable effort to promote access to life-saving medicines. Ms. Ramoul urged governments, health-care professionals, activists and industry to avoid finger-pointing and instead collaborate to promote access to medicines. Mr. de Felice explained the methodology of the Access to Medicine Index and suggested additional research into neglected tropical diseases. He supported initiatives to promote sharing and enhanced access to intellectual property like the Medicines Patent Pool. Citing positive impacts of the

Patent Pool. Mr. Burrone appealed for greater risk-taking and policy experimentation. He highlighted the need to maintain drug quality while regulatory barriers were rationalized to promote access. Mr. Love lamented a system which excluded the majority, and the lack of access to cancer medication. He proposed fundamental changes to promote innovation in the least harmful manner, and to delink drug prices from research and development costs. Ms. de Tussigny referred to the obligation to promote access and use limited resources to benefit as many people as possible. She recommended addressing the issue of regulatory barriers to the importation of life-saving medicines and emphasized the important role of generic competition in reducing prices. Dr. Doraiswamy supported a greater focus on neglected populations and their rights.

IV. Conclusions and recommendations

59. In closing the Social Forum, the Chairperson assured all the participants of the continued commitment of Qatar to global health. He informed them of the World Innovation Summit for Health which had held its annual session in Qatar in February 2015. The Summit had brought together health leaders from over 80 countries to share the latest research, ideas and health innovations that had the potential to revolutionize the future of global health care.

A. Conclusions

60. Several common themes emerged from the 2015 Social Forum. Not only is access to medicines a matter of life and death; it also enhances the quality of life; and it is key to a life with dignity. Yet, 2 billion men, women and children have no access to essential medicines. Intellectual property laws, lack of finances, weak health systems, poverty, inequality and discrimination, among other factors, contribute to lack of access to medicines.

61. Access to medicines involves public health, social justice and international human rights obligations. The International Covenant on Economic, Social and Cultural Rights requires States to take steps, to the maximum of their available resources, to progressively realize the right to health, prohibit retrogressive measures and requires them to immediately fulfil their minimum core obligations. It also calls for international cooperation. Access to medicines is a core obligation. Medicines must be affordable, acceptable, accessible, of good quality, and made available without discrimination.

62. Access to medicines is a complex and multidimensional issue calling for holistic solutions. Measures must be put in place to improve supply chains, address the underlying social determinants of health, promote policy coherence premised on the primacy of human rights over international trade, investment and intellectual property regimes and to ensure that health delivery systems are appropriate to those they serve. Inequities must be eliminated, including high costs borne by patients in many low and middle-income countries.

63. People's agency and empowerment should be improved to enhance access to medicines especially for the poor. Procedural safeguards like participation and access to information must be upheld. Evidence-based guidelines and policies to promote access to appropriate health-care services for women would help realize their right to health, and an increase in paediatric formulations would strengthen access for children. Addressing stigma and discrimination and ensuring equitable access and effective treatment would help realize the rights of people living with HIV.

64. Resource constraints cannot be an excuse for failing to meet health needs. Reasons for disparities in health outcomes across States of similar socioeconomic status must be understood and addressed. Experience shows that publicly funded health systems are the best way to ensure equitable access to health care. Access can be improved through innovative financing mechanisms; enabling public policies; more health workers; technical support; better health data, administrators, transport and delivery; improved supply chains, local production and health education; and other means. Holistic, people-centred and community-driven policies and active local involvement help strengthen health systems.

65. Access to medicines is one of the most explicit examples of how economics and trade rules conflict with human rights, including the rights to life, health and development. All are entitled to enjoy the benefits of scientific progress and traditional knowledge must be protected. Pharmaceutical companies must comply with their human rights responsibilities and ethical obligations. Several initiatives and good practices, including by those companies, point to steps in that direction. New models of research and development must address needs, not simply manage markets and profits.

66. Effective health policies, including the development of essential medicines lists, could improve access. States must live up to their individual and collective commitments and adopt a human rights-based approach to access to all medicines, not only essential medicines. International solidarity and collective action could support access for all.

B. Recommendations

67. Participants recommended urgent and immediate action, at the local, national, regional and international levels. Health systems needed to be strengthened, universal health coverage established and access to medicines ensured. That included building production capacity in developing countries, allowing access to generic drugs, enhancing research and development into treatment for neglected diseases and implementing effective procurement, distribution, price and quality control systems. Urgent steps to improve access to maternal and child health would help prevent maternal and infant mortality. The international community must aim for universal access in the post-2015 development agenda, which should also include mental health.

68. All stakeholders should explore ways of mobilizing new and innovative means of financing development and increasing resources available for health. Possibilities included imposition of a financial transaction tax, debt cancellation, resource pooling and tax reforms. International financial institutions must allow States sufficient policy space to pursue health objectives and States should make efforts to utilize existing resources more effectively including by leveraging their political and purchasing power to negotiate reduced prices and voluntary licensing.

69. TRIPS flexibilities and compulsory licensing should be used to their fullest and resort to political pressure to undermine those tools or impose TRIPS-plus provisions in trade agreements must be regarded as a violation of human rights obligations, calling for accountability in the universal periodic review. The legally binding petitions procedure under the Optional Protocol to the Convention on Economic, Social and Cultural Rights provided a means for interpretation and enforcement of the right to health.

70. Intellectual property laws required transformative changes to ensure that the benefits of scientific progress were enjoyed by all. Recommendations included

alternatives to market-based approaches and reforms to delink research and development costs from product prices. The recommendations of the report of the Global Commission on HIV and the Law, particularly the call for the United Nations to establish a commission to examine and propose alternatives to TRIPS, needed follow-up action. In the meantime, implementing TRIPS must be suspended, where it impeded access to medicines for the poor.

71. Participants called for a new and legally binding treaty on research and development of medicines that would promote innovation and equitable access. University research should be perceived as public research for everyone's benefit and not patented without proper safeguards to ensure access to resulting medicines. The Committee on Economic, Social and Cultural Rights should consider adopting a general comment on the right to enjoy the benefits of scientific progress.

72. All stakeholders should collaborate to enhance health systems. Participants proposed a holistic approach to health systems that enhanced equitable access, improved training of health and administrative personnel, employed culturally appropriate delivery systems, involved engagement with local communities and provided health and education outreach.

73. Participants recommended improved governance mechanisms, particularly for the regulatory oversight and accountability of multinational corporations. Pharmaceutical companies had responsibilities as articulated in the 2008 report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of health (A/63/263) containing the Human Rights Guidelines for Pharmaceutical Companies in relation to Access to Medicines. States, pharmaceutical companies, the Working Group on the issue of human rights and transnational corporations and other business enterprises, and the Human Rights Council should act to ensure their implementation.

74. The Human Rights Council and the international human rights machinery must remain seized of the issue. Participants recommended integration of a universal periodic review of the right to health and access to medicines that is evidence-based and promotes transparency and accountability. They called on the Council to commission a compilation of good practices in promoting access to medicines. The recommendations of the Social Forum must be taken up by the Council and acted upon.

Annexes

[*English only*]

Annex I

Provisional agenda

1. Opening of the session.
2. Implementation of Human Rights Council resolution 26/28 entitled "The Social Forum" on the theme "Access to medicines in the context of the right of everyone to the enjoyment of the highest standard of physical and mental health, including best practices in this regard".
3. Closure of the session.

Annex II

List of participants

States Members of the Human Rights Council

Argentina, Bolivia (Plurinational State of), Botswana, Brazil, China, Congo, Cuba, El Salvador, Ethiopia, France, Germany, India, Indonesia, Ireland, Japan, Kenya, Mexico, Morocco, Pakistan, Qatar, South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela (Bolivarian Republic of).

States Members of the United Nations represented by observers

Angola, Australia, Austria, Bahrain, Belarus, Belgium, Chile, Colombia, Ecuador, Greece, Honduras, Iran, Italy, Kuwait, Lao People's Democratic Republic, Lebanon, Lithuania, Luxembourg, Mozambique, Myanmar, Nicaragua, Panama, Peru, Philippines, Senegal, Slovenia, Spain, Sri Lanka, Switzerland, Syrian Arab Republic, Tajikistan, Tanzania, Thailand, Togo, Tunisia, Ukraine, Zambia.

Non-Member States represented by observers

Holy See.

Intergovernmental organizations

Commonwealth Secretariat, Council of Europe, Global Fund to Fight AIDS, Tuberculosis and Malaria, Medicines Patent Pool, Organisation International de la Francophonie, South Centre, UNITAID (Innovative Financing to Shape Markets for HIV/AIDS, Malaria and Tuberculosis), World Trade Organization.

United Nations

United Nations Conference on Trade and Development, United Nations Educational, Scientific and Cultural Organization, United Nations Development Programme.

Specialized agencies and related organizations

Joint United Nations Programme on HIV/AIDS, United Nations High Commissioner for Refugees, World Health Organization.

Non-governmental organizations

Access Our Medicine Initiative, AIDS Free World, Alliance Defending Freedom International, American Association of Jurists, Ariel Foundation International, Asian-Eurasian Human Rights Forum, Asia Pacific Network of People Living with HIV/AIDS, Association of World Citizens, Associazione Comunita Papa Giovanni XXIII, Autistic Minority International, Caritas Internationalis, Center for Reproductive Rights, Centre du

Commerce International pour le Développement, China Medical Association, Civicus, Commission Africaine des Promoteurs de la Santé et des Droits de l'Homme, Community Health and Information Network Uganda, Comision Colombiana de Juristas, Déclaration de Berne, Dominicans for Justice and Peace, Dr. Hawa Abdi Foundation, Equal Right to Life, Gavi, The Vaccine Alliance, Geneva for Human Rights, Health Innovation in Practice, HealthNet TPO, Hope International, Indian Council of South America, International Association for Hospice and Palliative Care, International Investment Center, International Longevity Centre/NGO Committee on Ageing, International Network for the Prevention of Elder Abuse, Intellectual Property Watch, Ipas Mexico, International Treatment Preparedness Coalition, International Youth and Student Movement for the United Nations, Jingguo Law Firm, Knowledge Ecology International, La Compagnie des Filles de la Charité de Saint Vincent de Paul, LDS Charities, Médecins Sans Frontières, Maloca Internationale, Mylan, India, New Generation Ishaka Belgium, Organisation of Islamic Cooperation, People's Health Movement, Press Trust of India, Rencontre Africaine pour la défense des droits de l'homme, Safe Observer International, Salud Por Derecho, Save the Children International, Sparkwater India, Third World Network, Union for International Cancer Control, Universities Allied for Essential Medicines, World Federation of the Society of Anaesthesiologists, Zomi Community USA.

National human rights institutions

The Danish Institute for Human Rights.

National Ministries and Departments

Department of Health, South Africa; Inala Indigenous Health Service, Australia; Ministry of Health, Brazil.

Academic institutions

Peking University, State University of Zanzibar, University of Strasbourg, University of Toronto, Vilnius University, Sichuan University.

Private sector

Access to Medicine Foundation, Malaria Initiative, Novartis Pharma AG, Novo Nordisk.

Independent experts

Dainius Pūras, United Nations Special Rapporteur on the Right to Health.